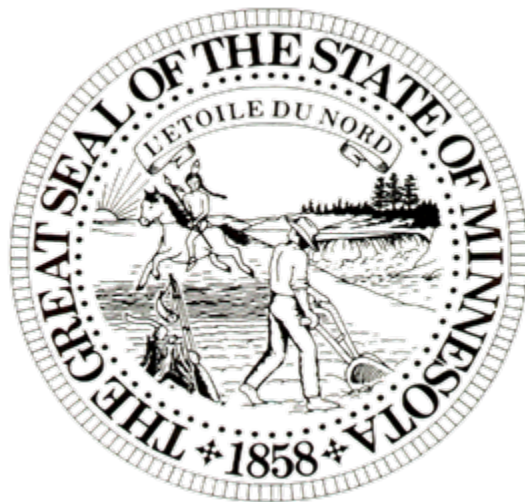


**FY 2017 Comprehensive  
Federal Annual Monitoring Evaluation (FAME) Report**

**State of Minnesota**

**Minnesota Department of Labor and Industry  
Occupational Safety and Health Division**



**Evaluation Period: October 1, 2016 – September 30, 2017**

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**Prepared by:  
U. S. Department of Labor  
Occupational Safety and Health Administration  
Region V  
Eau Claire, Wisconsin**



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## I. Executive Summary

The purpose of this comprehensive Federal Annual Monitoring Evaluation (FAME) report is to assess the State Plan's performance for Fiscal Year (FY) 2017 and its progress in resolving outstanding findings from previous FAME reports. This report assesses the current performance of the Minnesota Department of Labor and Industry – Occupational Safety and Health Division (MNOSHA) 23(g) compliance program in the context of agreed upon monitoring measures.

A detailed explanation of the findings and recommendations of the MNOSHA performance evaluation is found in Section III, Assessment of State Plan Progress and Performance. The FY 2016 Follow-up FAME identified one continued finding and three continued observations. In this report, all four have been closed or completed. Four new observations have been identified. A summary of observations is found in Appendix B, Observations and Federal Monitoring Plans.

The Minnesota Occupational Safety and Health Strategic Management Plan for FY 2014 to FY 2018 established three strategic goals: 1) Reduce occupational hazards through compliance inspections; 2) Promote a safety and health culture through compliance assistance, outreach, cooperative programs, and strong leadership; and 3) Strengthen and improve MNOSHA's infrastructure. The FY 2017 Performance Plan provided the framework for accomplishing the goals of the strategic plan by establishing specific performance goals for FY 2017.

In the FY 2017 State OSHA Annual Report (SOAR), MNOSHA provided information that outlines their accomplishment of meeting their Five-Year Strategic Management Plan. The information has been reviewed and analyzed to assess their progress in meeting performance plan goals and MNOSHA's SOAR is attached to this report as Appendix E. Through effective resource utilization, partnership development, outreach activities, and an overall commitment to performance goal achievements, all but two of the annual performance goals have been met or exceeded.

- Performance Goal 1.4, Percent of inspections designated as programmed: The FY 2017 target was for 86% of all inspections to be conducted as programmed inspections. In FY 2017, 76% of MNOSHA's 1,858 inspections were programmed.
- Performance Goal 2.2, Maintain the total number of people participating in outreach / training: The FY 2017 target was to maintain the baseline five-year average for FY 2008 – 2012 of 4,063 participants in outreach training sessions. In FY 2017, MNOSHA conducted 101 presentations to 3,609 participants, 11% below the baseline. Ninety-nine percent (99%) of the presentations were given in emphasis areas including excavations, confined spaces in construction, and silica.

Quarterly monitoring team meetings were held during FY 2017, at which time the State Activity Mandated Measures (SAMM) reports and the State Indicators Reports (SIR) were reviewed and discussed with MNOSHA compliance staff. The FY 2017 SAMM is Appendix D of this report.

## II. State Plan Background

### A. Background

The Minnesota Department of Labor and Industry (DLI) administers the MNOSHA program. The program began operating on August 1, 1973, with final State Plan approval obtained on July 30, 1985. MNOSHA includes the Occupational Safety and Health (OSH) Compliance Division, which is responsible for compliance program administration (conducting enforcement inspections in the private sector and in state and local government agencies, adoption of standards, and operation of other related OSHA activities), and the Workplace Safety Consultation (WSC) Division, which provides free consultation services upon request to help employers prevent workplace accidents and diseases by identifying and correcting safety and health hazards.

MNOSHA's mission is "to ensure every worker in the State of Minnesota has a safe and healthful workplace." This mandate involves the application of a set of tools by MNOSHA, including standards development, enforcement, compliance assistance, and outreach, which enables employers to maintain safe and healthful workplaces.

Commissioner Ken Peterson is the head of the DLI. Ms. Cindy Valentine served as the Workplace Safety Manager reporting directly to the Commissioner until her retirement on September 1, 2017. Effective September 20, 2017, Mr. James Krueger is the Acting Workplace Safety Manager, and Ms. Nancy Zentgraf is the Acting Director of the OSH Compliance Division. Mr. Tyrone Taylor is the Director of the WSC Division within Minnesota DLI. The FY 2017 grant included funding totaling \$8,939,691 and full-time equivalent (FTE) staffing of 72.9 positions. The State Plan's expected staffing level is 31 safety investigators and 12 health investigators. MNOSHA allocated funding for 32.24 safety and 13.99 health positions.

### B. Major New Issues

None.

## III. Assessment of State Plan Progress and Performance

### A. Data and Methodology

OSHA has established a two-year cycle for the FAME process. FY 2017 is a comprehensive year and as such, OSHA was required to conduct an on-site evaluation and case file review. A four-person team, which included a whistleblower investigator, was assembled to conduct a full on-site case file review. The case file review was conducted at the Minnesota State Plan office from January 24 to January 31, 2018. Eighty-one (81) safety and health inspection cases, including 15 fatality cases, were selected for review. A total of 36 complaints were evaluated, including 17 formal complaint inspection files and 19 nonformal complaint files. Whistleblower protection cases were selected based on the type of determination and investigator of record. Twenty (20) of the 57 cases were reviewed,

including those with non-merit/dismissed and withdrawn determinations. Additionally, 10 cases were reviewed that had been screened and closed without investigation. All cases were randomly selected from those closed during the period under review (October 1, 2016 through September 30, 2017).

The analyses and conclusions described in this report are based on information obtained from a variety of monitoring sources, including the:

- State Activity Mandated Measures Report (Appendix D)
- State Information Report
- Mandated Activities Report for Consultation
- State OSHA Annual Report (Appendix E)
- State Plan Annual Performance Plan
- State Plan Grant Application
- Quarterly monitoring meetings between OSHA and the State Plan
- Full case file review

Each state activity mandated measure has an agreed-upon further review level (FRL), which can be either a single number, or a range of numbers above and below the national average. State Plan SAMM data that falls outside the FRL triggers a closer look at the underlying performance of the mandatory activity. Appendix D presents the State Plan's FY 2017 SAMM report and includes the FRL for each measure.

Throughout the entire process, MNOSHA was cooperative, shared information, and ensured staff was available to discuss cases, policies, and procedures. MNOSHA staff members were eager to work with the evaluation team.

## **B. Review of State Plan Performance**

### **1. PROGRAM ADMINISTRATION**

The MNOSHA Strategic Management Plan aligns closely with OSHA's initiatives. The plan serves as a mechanism for communicating a shared set of expectations regarding the results that MNOSHA expects to achieve and the strategies that it will use to achieve them. MNOSHA will adjust the plan as circumstances necessitate, use it to develop the annual Grant Application and Performance Plan, report on progress in annual performance reports, and monitor program accountability for achieving the goals and outcomes.

#### **a) Training**

MNOSHA has developed and implemented its own training program outlined in ADM 5.1 MNOSHA Investigator and Consultant Training Plan. This training plan is comprehensive in nature, covering not only the information needed to conduct enforcement activities, but the routine administrative functions of MNOSHA. The equivalent of OSHA's Initial Compliance and Legal Aspects courses are covered at the state level. This facilitates and reinforces MNOSHA's policies and procedures for

conducting an inspection and developing a legally sufficient case for the state. MNOSHA also provides training to develop soft skills, including conflict resolution, interviewing/investigation, organization, presentation, creating training techniques, and time management. The training instruction identifies the responsible party for conducting various aspects of the training and the time frame in which the training is completed. Some of the training is provided on line. In addition to MNOSHA's internal training program, investigators attend courses at the OSHA Training Institute (OTI) to obtain specific training based on discipline and need. A training and outreach director began managing the training program in January 2013.

#### b) OSHA Information System

Minnesota uses Informix-based software for enforcement information management and data processing, which is called MOOSE, for MNOSHA Operations System Exchange. It provides MNOSHA with real time information and data processing. At the start of FY 2016, MOOSE began interfacing with the OSHA Information System (OIS). Management reports, equivalent to those available from OIS, are used by MNOSHA management to track complaints, accidents, assignments, inspections, abatement, debt collection, and other issues of interest.

MNOSHA operates as paperless as possible. The use of MOOSE is integral to the process. Complaint and fatality intake, assignments, case file processing, and many other operations are performed in MOOSE. Data is entered into the system in a timely manner.

#### c) State Internal Evaluation Program Report

MNOSHA established goal #3 in their FY 2014 to FY 2018 Five-Year Strategic Management Plan as their workplace plan to address the state's internal evaluation program (SIEP). Projected Fiscal Year plans are identified in the program's annual grant applications. Summaries of the program's achievements in relation to their plan are provided in the SOAR.

MNOSHA reviews the rules for effectiveness, which include ongoing evaluation and development of rules, standards, guidelines and procedures, including the following eight step process for workplace development and retention planning:

1. Environmental Scanning
2. Organizational Analysis
3. Identify Target Areas
4. Current Workforce Analysis
5. Future Workplace Analysis
6. Gap Analysis and Strategy Development
7. Develop and Implement an Action Plan and Communication Strategy
8. Monitor Plan and Evaluate Results

MNOSHA's Compliance Directives Coordination Team (DCT) is charged with

coordinating and managing the MNOSHA internal information system. The DCT consists of three management analysts and two management representatives. This group monitors federal standard/policy activity and coordinates updates to all relevant MNOSHA standards, directives, and policies accordingly. MNOSHA adopts federal standards by reference and/or develops Minnesota specific standards when necessary to support MNOSHA program goals. During FY 2017, 31 directives were revised and issued to staff. Additionally, one directive was added and one was cancelled.

MNOSHA conducts internal reviews to ensure the MNOSHA program continues to follow the requirements of the OSHA program. Internal performance is a monthly agenda item at OSHA Management Team (OMT) meetings, whereby reports are generated to facilitate review of the internal program components. The program currently has three positions with responsibility for quality control and assurance of inspection case files.

d) Staffing

Management and administration of the OSH Compliance Division is the responsibility of the OMT. The OMT includes the compliance director, the training / outreach / partnerships director, and seven supervisors. The total complement of the OSH Compliance Division was 75 FTE for FY 2016 and 72.9 FTE for FY 2017.

For FY 2017, the benchmark for safety was 31 positions with 30.24 positions (98%) filled. The benchmark for health was 12 positions with 12.99 positions filled (108% of the benchmark).

**Enforcement Staffing Levels**

		<b>FY 13</b>	<b>FY 14</b>	<b>FY 15</b>	<b>FY 16</b>	<b>FY 17</b>
<b>Safety</b>	Benchmark	31	31	31	31	31
	Positions Allocated	42	41.9	32.98	34.24	32.24
	Positions Filled	40	41.9	32.98	32.24	30.24
	Vacancies	2	0	0	2	2
	% Of Benchmarks Filled	129%	135%	106%	104%	98%
<b>Health</b>	Benchmark	12	12	12	12	12
	Positions Allocated	16	17.9	15.98	14.99	13.99
	Positions Filled	15	17.9	15.98	13.99	12.99
	Vacancies	1	0	0	1	1
	% Of Benchmarks Filled	125%	149%	133%	117%	108%

MNOSHA has two safety and health professionals on duty to answer questions received primarily through phone calls and e-mails. During FY 2017, MNOSHA responded to 4,477 phone calls and 2,039 written requests for assistance. A majority of these inquiries were answered within one day. During FY 2017, 84% of phone calls were received from employers, workers, and consultants. Callers are provided information during the initial phone call or directed to the MNOSHA or OSHA websites or another state agency for

assistance. The information requested covers a wide variety of topics, which is why MNOSHA continues to use investigative staff to answer a majority of the calls.

## 2. ENFORCEMENT

During FY 2017, MNOSHA conducted 1,858 inspections; 1,446 safety and 412 health. Of those, 1,408 were programmed, 369 were complaints and referrals, and 15 were follow-ups. The total number of inspections decreased 6% from FY 2016. (Source: Inspection Summary report dated February 27, 2018)

### a) Complaints

During FY 2017, MNOSHA received a total of 1,141 complaints, of which 324 (28%) were formal and 818 (72%) were nonformal. The average number of days to initiate a complaint inspection in FY 2017 was 3.38, well below the negotiated standard of nine days. The average number of days to initiate a complaint investigation was 0.95, below the negotiated standard of two days. OSHA randomly selected 19 nonformal complaint investigations for review during this evaluation of the MNOSHA program.

MNOSHA has its own complaint process specified in ADM 3.16 Administrative Procedures for Handling Complaints and Information Requests. The directive outlines the policies and procedures for processing formal and nonformal complaints.

MNOSHA considers electronic complaints obtained through the federal complaint system as formal complaints if the individual indicates they are a current employee or employee representative and an electronic signature is provided. After the receipt of an electronic complaint, a follow-up call to the complainant is usually made to clarify the complaint items. In some instances, the complainant may elect to process the complaint nonformally to address the issue, such as in sanitation complaints or complaints with low severity.

Following complaint inspections, complainants are mailed a letter informing them of the inspection and indicating whether or not citations were issued. In the federal program, the letter addresses each complaint item with reference to the enclosed citation(s) or a sufficiently detailed explanation for why a citation was not issued. The difference in procedure was first noted in the FY 2012 FAME as Finding and Recommendation 12-02. Subsequently, on September 12, 2016, Minnesota Rule 5210.0530 was adopted, directing MNOSHA to mail a copy of the citation to the complainant in a complaint inspection. In the cover letter, complainants are also invited to contact the investigator with any questions they may have regarding the inspection. In two (12%) of the 17 onsite complaint inspections reviewed for FY 2017, the complainant was not provided the citation and/or letter because a mailing address was not included with the complaint. In both cases, the complaint was filed by email; therefore, an email address was known and could have been used to provide the information to the complainant. Alternatively, the complainant could have been contacted by email and given the opportunity to provide a mailing address.



MNOSHA's nonformal complaint processing also differs from the federal program as it relates to the outcome of nonformal complaint investigations. Chapter 9 of OSHA's Field Operations Manual (FOM) contains the requirement to advise the complainant of the employer's response, as well as the complainant's right to dispute that response, and if the alleged hazard persists, of the right to request an inspection. MNOSHA does not send a letter to the complainant at the conclusion of the investigation to inform them of the outcome. This was noted in the FY 2012 FAME as Finding and Recommendation 12-01, and continued to be noted each year thereafter as MNOSHA and OSHA attempted to identify a resolution. On December 29, 2014, MNOSHA revised their ADM 3.16 to include information in the acknowledgement letter to the complainant regarding how a complainant may obtain a copy of the employer's response after the complaint is closed and becomes releasable as a public record.

In one (5%) of the 19 nonformal complaints reviewed for FY 2017, the complainant was not provided an acknowledgement letter because the complainant indicated an email address rather than a mailing address. MNOSHA receives approximately 750 complaints filed through OSHA's website each year. Complainants are required to enter an email address in the online complaint form. Providing a mailing address is optional. However, the complainant is not informed that they will not receive correspondence from MNOSHA without one. The complainant's email address could have been used to provide the acknowledgement letter. Alternatively, the complainant could have been contacted by email and given the opportunity to provide a mailing address.

On March 16, 2015, Minnesota adopted the revisions to 29 CFR 1904.39 requiring an employer to report work-related hospitalizations, amputations, and losses of an eye. MNOSHA modified ADM 3.16 to incorporate the employer reports of injuries and illnesses. ADM 3.16 contains a flow chart with the criteria to be used in determining whether an inspection is conducted. If a determination is made to conduct an inspection, it is done in accordance with ADM 3.18 Serious Injury Inspection Procedures. Reports of serious injuries and illnesses that are not inspected are handled similarly to nonformal complaints as outlined in ADM 3.16.

Unlike OSHA's interim enforcement procedures, which include factors such as history of the employer, youth and other vulnerable workers, hazard included in an emphasis program, and continuance or abatement of a hazard; MNOSHA's criteria for inspection focuses on the type and severity of the injury or illness including electrical burns, fire burns on over 20% of the body, broken bones, head or spine injuries, and chemical pneumonia or sensitivity.

During the FY 2017 review, five of the selected nonformal complaints were employer-reported injuries. In four (80%) of the five instances, MNOSHA's decision to not inspect the report of injury was contrary to their criteria listed in MN Instruction ADM 3.16.

On August 29, 2017, MNOSHA added a requirement to ADM 3.16 for a supervisor to determine whether the injury or illness will be inspected or processed as a non-formal complaint. In making the final decision, MNOSHA is encouraged to utilize the same

criteria as OSHA does, which will help ensure inspection resources are directed where they will make the most impact in obtaining correction of serious hazards.

**Observation FY 2017-OB-01:** In three of the 36 (8%) complaint-related files reviewed, a letter was not sent to the complainant with information on the outcome of the complaint.

**Federal Monitoring Plan FY 2017-OB-01:** OSHA will discuss and evaluate MNOSHA's internal audits conducted in this area during quarterly monitoring meetings.

**Observation FY 2017-OB-02:** MNOSHA's listed criteria for inspecting employer-reported injuries and illnesses, contained in MN ADM 3.16, focuses on the type and severity of the injury or illness that had occurred, rather than factors such as history of the employer, youth and other vulnerable workers, hazard included in an emphasis program, and continuance or abatement of a hazard. Further, in four (80%) of the five employer-reported injuries selected during the FY 2017 review, MNOSHA's decision to not inspect the injury was contrary to their own listed criteria.

**Federal Monitoring Plan FY 2017-OB-02:** OSHA will discuss and evaluate MNOSHA's internal audits conducted in this area during quarterly monitoring meetings.

#### b) Fatalities

A total of 18 fatalities were reported to MNOSHA in FY 2017, up from 16 during the previous year. DLI's Injury Notification Template is provided to OSHA for information and tracking of all fatalities. All 15 of the fatality cases reviewed were responded to within one day. In all five of the cases reviewed where MNOSHA changed the record to "no inspection," a determination of no jurisdiction was appropriate.

Fatality information is recorded in MNOSHA's MOOSE. All fatalities are entered into the Fatality/Serious Injury Log. Each entry is reviewed by a supervisor who determines if the fatality falls within MNOSHA's jurisdiction. The supervisor can assign a fatality for inspection from the log, at which time an Accident/Event record is generated. Generally, non-jurisdiction fatalities are not inspected and an Accident/Event record is not generated.

During the 2000 session, the legislature amended the Minnesota Occupational Safety and Health Act by adding a new section (Minn. Stat. 182.6545) which requires MNOSHA to make reasonable efforts to locate a deceased employee's next of kin and to mail them copies of the following documents related to the investigation:

- Citations and notification of penalty
- Notices of hearings
- Complaints and answers
- Settlement agreements
- Orders and decisions

- Notice of appeals

Under the statute, the next of kin also has the right to request a consultation with DLI regarding citations and notifications of penalties issued as a result of the investigation of the employee's death.

MNOSHA Instruction ADM 3.19 Fatality Investigation Procedures requires a condolence letter be sent to the next of kin. After issuance of the initial letter, MNOSHA generally does not attempt to communicate with the next of kin unless MNOSHA is contacted by them. Contact is kept at the supervisory/management level.

#### c) Targeting and Programmed Inspections

During FY 2017, MNOSHA conducted 1,858 inspections, with 76% opened as programmed inspections. MNOSHA focused its programmed inspections to reduce injuries, illnesses, and fatalities in certain emphasis industries. MNOSHA has a specific administrative instruction that outlines its policies for inspection targeting, ADM 2.1 Scheduling Plan for Programmed Inspections. Ninety-one percent (91%) of all programmed inspections were conducted in the emphasis industries.

MNOSHA has developed targeting lists to address Strategic Management Plan hazards and specific industries during programmed inspections. MNOSHA's program administration unit is responsible for collecting data and developing targeting lists for inspection under the various national and local emphasis programs.

MNOSHA participates in several national emphasis programs (NEPs), which include amputations, combustible dust, silica, lead, process safety management (PSM), ammonia and ethanol, and trenching.

MNOSHA utilized data from Minnesota's Department of Employment and Economic Development to develop a local planning guide. Employers with SIC/NAICS codes identified in the state's Strategic Management Plan receive priority for an inspection. Other local emphasis programs (LEPs) include, but are not limited to, window washing, foundries, healthcare, meat packing, serious injury, grain facilities, hexavalent chromium, isocyanates, schools, and investigator-observed imminent danger.

MNOSHA's procedures for scheduling construction inspections are also outlined in MNOSHA's ADM 2.1. The primary scheduling methods for construction inspections are a Dodge list of the major projects in the state and activity generated inspections. Under the activity generated inspections LEP, an inspection may be opened if the site has at least one of the following activities being conducted (safety or health): demolition and/or renovation work; visible airborne dust; lined dumpsters; use of torches for brazing, cutting, welding, soldering, or applying open flame heat; use of internal combustion engines inside a structure; any removal of exterior materials using "dry methods;" frequent use of saws, grinders, jackhammers, etc.; bridge work; use of shroud on water towers and bridges indicating lead paint removal; cranes in operation; structures greater

than 30 feet high; buildings equal to or greater than two stories or 20 feet in height; buildings equal to or greater than 5,000 square feet; multiple equipment (at least one earth moving) operation - crushing hazard or struck-by hazard; or roofing work equal to or greater than 14 feet from the eave to a lower level or a potential fall of 20 feet.

Of the 1,408 programmed inspections opened in FY 2017, 1,386 were coded as programmed planned, while 22 were coded as programmed related.

#### d) Citations and Penalties

In MNOSHA's Field Compliance Manual (FCM), Chapters 5 and 6 contain the requirements and policies for citations and penalties, respectively. The citations and penalties proposed for issuance are reviewed at multiple levels in MNOSHA's management system prior to issuance.

During FY 2017, MNOSHA investigators conducted 1,858 inspections where 3,000 hazards were identified and cited. Sixty-four percent (64%) of the inspections resulted in violations and 71% of those violations were classified as serious. The average number of serious/willful/repeat violations per inspection was 1.86.

In six of the cases reviewed during the FY 2013 review, exposure monitoring for air contaminants was not conducted during the inspection in order to evaluate the workers' exposure, address complaint items, and/or support serious citations. Observations FY13-OB-1, FY13-OB-2, and FY13-OB-3 addressed the concerns, respectively. All three observations were continued in the FY 2014 Follow-up FAME.

During the FY 2015 review, 10 of 18 (56%) programmed comprehensive inspections appeared to miss reasonable opportunities to conduct exposure monitoring for serious health hazards including hexavalent chromium, noise, silica, carbon monoxide, wood dust, and spray finishing chemicals. Consequently, observation FY 2014-OB-01 was converted to a new finding and recommendation, FY 2015-03. Throughout FY 2016 and 2017, MNOSHA worked diligently to identify ways to improve documentation of conditions and hazards and to train their health staff. During the FY 2017 review, 21 health cases were reviewed and found to contain adequate exposure monitoring information. Therefore, the finding which had been continued as FY 2016-01 is completed.

The average initial penalty per serious violation in the private sector during FY 2017 was \$1,010.09 (SMM 8: 1-250+ workers). The FRL is -25% of the national average (\$2,516.80), which equals \$1,887.60. Penalty levels are at the core of effective enforcement, and State Plans are therefore required to adopt penalty policies and procedures that are "at least as effective as" (ALAE) those contained in the FOM, Chapter 6 – Penalties and Debt Collection.

#### e) Abatement

MNOSHA continues to focus on abatement verification, in particular the number of cases more than 30 days past their abatement date.

MNOSHA has a management system in place to control abatement past due issues. MNOSHA ADM 3.4 Abatement Verification includes definitions for certification of abatement and documentation of abatement, as well as guidance on when each type of abatement verification is required. Identical to OSHA, MNOSHA's abatement documentation standard (5210.0532 subp. 3) and ADM 3.4 require abatement documentation, such as written, video graphic, or photographic evidence in certain circumstances. When abatement documentation is necessary, MNOSHA identifies this requirement in the citations.

A violation can be considered corrected during the inspection (CDI) when the investigator observes the correction to the specific violation while onsite. Additionally, OSHA requires that the violation worksheet contains information on how the violation was abated. This policy is outlined in the FOM. During the FY 2017 review, all case files reviewed where CDI was applied contained documentation showing the investigator witnessed the elimination of the hazard prior to the employees resuming work.

MNOSHA's regulations and written procedures for Petitions for Modification of Abatement Dates (PMA) are equivalent to federal regulations and procedures.

MNOSHA's follow-up inspection policy is slightly different than OSHA's. In addition to follow-ups being scheduled for inspections as the result of an employer's failure to submit timely progress reports outlining abatement, or when the investigator recommends a follow-up inspection, MNOSHA identifies specific citation outliers. In Minnesota, a follow-up inspection may be scheduled when an inspection results in at least five citations that are serious, willful, or repeat and are not immediately abated, with at least one citation rated in greater severity and probability.

#### f) Worker and Union Involvement

Minnesota Statute 182.659 and Chapter 3 of the FCM contain requirements and policies for the investigator to involve employees and employee representatives during the course of the inspection. This includes the opening conference, walk around, and closing conference. Chapter 1 of the MOOSE Manual for Inspection Files contains instructions to indicate contact with the union representative(s) or explain their absence. In cases where citations are issued, the authorized employee representatives are also mailed a copy of the citation.

In accordance with MN Stat.182.661 and Minnesota Rules Chapter 5210, employers, employees, and authorized employee representatives have 20 calendar days from the date of receipt of citations within which to file a notice of contest regarding the citation, type of violation, penalty, and/or abatement date. The statute further requires that the notice

be filed on a form provided by the Commissioner and that the contesting parties serve a copy of the notice on affected employees.

Additionally, Minnesota Rule 5210.0573 permits an employer, affected employees, or authorized representatives to request party status if one of the other parties contests the citation. Employees and authorized representatives are informed of this process on the Employee Notice of Contest form. By obtaining party status, affected workers or authorized representatives are involved in informal and formal settlements and formal hearings.

Case files reviewed for FY 2017 contained sufficient documentation of worker and union involvement.

### 3. REVIEW PROCEDURES

#### a) Informal Conferences

MNOSHA's review procedures are organized slightly differently than the OSHA program. Instead of conducting an informal conference before the expiration of the contest period, a citation must be contested before an informal conference is held. As previously noted, employers, employees, and authorized employee representatives have 20 calendar days from the date of receipt of citations within which to file a notice of contest regarding the citation, type of violation, penalty, and/or abatement date. The notice must be filed on a form provided by the Commissioner and contesting parties must serve a copy of the notice on affected employees.

MNOSHA has developed three official forms for an employer or employee to use when filing a notice of contest. Forms are mailed to the employer with the citation package when the citation notice is issued. The Employee Notice of Contest form is sent to the employer when an employee contest letter is received. The employee contest date is considered to be the date the original letter of contest is received by MNOSHA from an employee.

#### b) Formal Review of Citations

After receiving the properly filed notice of contest, MNOSHA will attempt to meet with the contesting party to discuss relevant matters pertaining to the conduct of the inspection, citations, means of correction, penalties, abatement dates, and safety and health programs. After the informal conference, recommended changes to the original citation will be accomplished through a Settlement Agreement and Order prepared by MNOSHA's legal counsel or the matter may be referred for hearing.

MNOSHA's management or principal investigator discusses interim worker protection measures with employers during settlement conferences prior to entering into an agreement where abatement dates are extended. Abatement information is included in the informal conference memorandum prepared following the conference.

MNOSHA’s management or principal investigator also discusses penalty reduction and reclassification reasoning with employers during settlement conferences, and documents the reasons for the changes in the memorandum. In the cases reviewed during the FY 2017 audit, a majority of the changes were penalty reductions for settlement purposes.

4. STANDARDS AND FEDERAL PROGRAM CHANGES (FPCs) ADOPTION

a) Standards Adoption

During FY 2016, three applicable standards were required to be adopted by the State of Minnesota. During FY 2017, three applicable standards were required to be adopted, including the 2017 annual adjustment to civil penalties.

**Federally Initiated Standards Log**  
Summary Report for MN

Subject	Intent to Adopt	Adopt Identical	Date Promulgated	Effective Date
Occupational Exposure to Respirable Crystalline Silica	YES	YES	09/26/2016	09/26/2016
Improve Tracking of Workplace Injuries and Illnesses	YES	NO		
Maximum Penalty Increases	YES	NO		
Walking-Working Surfaces and Personal Protective Equipment (Fall Protection Systems)	YES	YES	08/07/2017	09/19/2017
Occupational Exposure to Beryllium	YES	YES		
Implementation of the 2017 Annual Adjustment to Civil Penalties for Inflation	TBD			

**Electronic Reporting Rule**

On May 12, 2016, OSHA published the Final Rule to Improve Tracking of Workplace Injuries and Illnesses, effective January 1, 2017. The rule required all affected employers to submit 300A log summaries in OSHA’s Injury Tracking Application (ITA) by the specified due date of July 1, 2017. This deadline was subsequently pushed back to December 15, 2017.

In its Fall 2017 Regulatory Agenda, OSHA announced that it intends to issue a proposal to reconsider, revise, or remove provisions of the Improve Tracking of Workplace Injuries and Illnesses final rule, 81 FR 29624 (May 12, 2016).

State Plans were required to adopt an “at least as effective as” rule within six months of promulgation, by November 14, 2016. However, given OSHA’s intent to issue a proposed rule to reconsider, revise, or remove provisions of the Improve Tracking of Workplace Injuries and Illnesses rule, a number of State Plans, including MNOSHA, have delayed adoption until this additional rulemaking is complete.

### **Maximum Penalty Increase**

With the passage of the Bipartisan Budget Bill on November 2, 2015, OSHA raised its maximum penalties effective August of 2016. As required by law, OSHA then increased maximum penalties annually, on January 1, 2017 and January 1, 2018, according to the Consumer Price Index (CPI). State Plans are required to adopt both the initial increase and subsequent annual increases.

Minnesota has not yet completed the legislative changes to increase maximum penalties. OSHA will continue to work with Minnesota on this issue.

### **Beryllium Standard**

On January 9, 2017, OSHA adopted new standards addressing occupational beryllium exposure in general industry, construction, and shipyards. State Plans were required to adopt an “at least as effective as” rule within six months of promulgation, by July 9, 2017. However, on June 27, 2017, OSHA published a notice of proposed rulemaking proposing to revoke the ancillary provisions applicable to the construction and shipyard sectors, but to retain the new permissible exposure limits (PELs). OSHA will not enforce the provisions of the January 9, 2017 construction and shipyard standards that it has proposed to revoke while the current rulemaking is underway.

Given the unusual circumstances of this rulemaking, in which substantive changes have been proposed to a standard within six months following its initial promulgation, several State Plans, including MNOSHA, have delayed promulgation pending completion of the second rulemaking.

MNOSHA continues to provide timely notification to OSHA regarding all state-initiated standard changes. Minnesota proposed and adopted three standard changes during FYs 2016 and 2017. Minnesota Rule changes addressed the following topics: National Fire Protection Association (NFPA) references, repeal of the hand-powered platform passenger type manlifts rule, and complainant’s receipt of citations.

#### **b) Federal Program Change (FPC) Adoption**

All FPC responses were submitted timely, as well as plan change information and any state initiated changes. For those FPCs that the state did not adopt, the topics were not adopted due to the state having a pre-existing directive that addressed the issues. To access these documents, please visit [http://www.osha.gov/dosp/osp/std\\_fpc.html](http://www.osha.gov/dosp/osp/std_fpc.html). For specific information on the state’s policy as it relates to these items, please contact MNOSHA Compliance at 651-284-5050.



**Federal Program Change Log**  
Summary Report for MN

Directive Number	Title	Adoption Required, Equivalency Required or Adoption Encouraged/Not Required	Intent to Adopt	Adopt Identical	State Adoption Date
CPL 02-03-006 2016 844	Alternative Dispute Resolution Process for Whistleblower Protection Program	Adoption Encouraged / Not Required	NO	N/A	
TED 01-00-020 2016 845	Mandatory Training Program for OSHA Whistleblower Investigators	Equivalency Required	NO	N/A	
CPL 02-00-159 2016 864	Field Operations Manual	Equivalency Required	NO	N/A	
CSP 02-00-003 2016 885	Consultation Policies & Procedures Manual	Equivalency Required	YES	YES	11/19/2015
CPL 02-03-007 2016 905	Whistleblower Investigations Manual	Equivalency Required	NO	N/A	
CPL 03-00-020 2016 911	National Emphasis Program on Shipbreaking	Adoption Required	YES	YES	05/06/2016
CPL 02-00-160 2016 924	Field Operations Manual	Equivalency Required	YES	NO	
CPL 02-01-058 2017 944	Enforcement Procedures and Scheduling for Occupational Exposure to Workplace Violence	Adoption Encouraged / Not Required	NO	N/A	

5. VARIANCES

There were no variance requests received or variances granted during Fiscal Years 2016 and 2017.

A variance is an order issued by the Minnesota DLI to allow an employer to deviate from the requirements of a MNOSHA standard. Variances can be temporary or permanent. Variances are written to cover future activity by the employer and his or her employees. DLI can refuse to accept an application for a variance regarding a contested citation. When variances are granted by OSHA covering several states, MNOSHA will honor a federal variance, provided the employer has not applied to DLI for a separate state variance, the federal application included Minnesota, the federal standard from which the

variance was granted has been adopted by MNOSHA without change, and DLI receives no objections to the variance.

## 6. STATE AND LOCAL GOVERNMENT WORKER PROGRAM

MNOSHA's state and local government worker program operates identically to the private sector program. As with the private sector, state and local government employers can be cited with monetary penalties. The penalty structure is the same. In FY 2017, MNOSHA conducted 95 inspections of state and local government workplaces; 5.11% of the total inspections conducted in Minnesota. During the FY 2017 review, four case files were reviewed. There were no apparent differences between the state and local government and private sector case files.

## 7. WHISTLEBLOWER PROGRAM

MNOSHA's Whistleblower Protection Program consists of an OMT director, one supervisor, and three investigators. Procedurally, the MNOSHA Whistleblower Protection Program adheres to MNOSHA ADM 3.6 Discrimination Complaint Handling Procedures, which provides guidelines for the investigation and disposition of retaliation complaints filed with MNOSHA.

Accordingly, this review followed the guidelines, procedures, and instructions of OSHA CPL 02-03-007 Whistleblower Investigations Manual (WIM), and 29 CFR 1977. MNOSHA's supervisor was consulted for information as necessary during the review.

During FY 2017, MNOSHA docketed 57 cases for investigation and closed a total of 57 cases. This represents an increase from FY 2016, when 50 cases were opened and 53 cases were closed.

### Investigative File Review

The cases reviewed were selected from those with final determinations during the review period and the selections were based on type of determination and the investigator of record. Twenty (20) of the 57 cases (35%) were reviewed, including those with non-merit/dismissed and withdrawn determinations. Cases are assigned for investigation after a response has been received from the complainant and the respondent has been notified of the complaint. An assignment memorandum is not produced, but the assignment is tracked in MOOSE. Whistleblower unit staff meets monthly to discuss cases and ensure cases are completed in a timely manner.

A review of the Whistleblower State Plan Investigation Data report for the review period indicated that of the 57 cases completed, four (7%) were withdrawn, 46 (81%) were dismissed, seven (12%) had merit, and no cases settled. The percentage of cases completed timely was 46%.

During the FY 2015 review, in two of the 19 cases reviewed, the complainant's alleged protected activity involved safety or health enforcement activity. In both cases, the investigator did not include in the file any information from the inspection file to support or negate the allegations. According to OSHA's WIM, an investigator should conduct pre-investigation research, including obtaining: copies of complaints, copies of the results of recent enforcement actions taken against the employer, copies of relevant documents, including inspector's notes, and information on any previous whistleblower complaints filed by the complainant or against the respondent. ADM 3.6 contains a requirement for safety and health compliance staff to document relevant information received during the course of an inspection.

During FY 2017, MNOSHA conducted audits of case files to ensure enforcement activity, if any, was reflected in the whistleblower case files. No concerns were noted in the files reviewed by the FY 2017 review team. Consequently, Observation FY 2016-OB-01 is closed.

#### Complaint Intake and Screening

MNOSHA follows ADM 3.6 for complaint intake and screening. All complaints are screened by the investigators and are tracked in MOOSE. During the review period, MNOSHA had 27 complaints coded as screened and closed. Their previous instruction stated that screened out complaints will only be confirmed by letter if the complainant does not understand why their complaint does not meet the criteria to docket the case. This was included in the FY 2011 FAME as finding and recommendation 11-02. In response, MNOSHA's revised policy is to offer to send the complainant a letter confirming that the case is inappropriate for investigation and to document the complainant's response to the offer. The revised policy remains contrary to OSHA's WIM, which requires that a letter to the complainant be generated for all screened and closed complaints. Of the 10 screened and closed complaints reviewed for FY 2017, one (10%) closing letter was not sent. The file indicated the letter was not sent. Consequently, Observation FY 2016-OB-02 is closed.

Notes regarding the intake information and the reason the complaint is screened and closed are entered into MOOSE. The investigators document whether the complainant was in agreement with the disposition of their complaint and whether a follow up letter was sent. On occasion, a complainant may disagree with the investigator's determination that the complaint is inappropriate for investigation. The complainant is sent a letter explaining the determination and providing an opportunity to request a review within 15 days. As the letter provides the complainant a written determination and an opportunity to request a review within 15 days, the letter should be sent by certified mail to maintain accountability of receipt. In five (56%) of the nine administratively closed cases reviewed, where a letter was sent to the complainant, certified mail was not used to maintain accountability of receipt.

Lastly, MNOSHA's instruction indicates that if a complainant does not wish to file at the time of initial contact with MNOSHA, they may leave their address to receive a letter confirming the 30-day filing time period.

### Case Activity Worksheet

The MNOSHA Whistleblower Program does not use Case Activity Worksheets generated by the Whistleblower WebIMIS system. The program determined that they do not need the information contained on the form. While the Case Activity Worksheet is not provided to the respondent, a detailed allegation is incorporated into the respondent's notification letter.

### Complainant Statement and Witness Interviews

MNOSHA utilizes a Complainant's Statement form filled out by the investigator after the initial phone intake with the complainant. The Complainant's Statement form includes a narrative of the allegation and is sent with the complainant's acknowledgement letter. The complainant is asked to fill in any incomplete sections of the form, review the narrative of the allegation, provide any additional written documentation, and sign to verify it is accurate.

Prior to beginning interviews with witnesses, Minnesota Statute § 13.04, subd. 2, requires the individual be given certain information referred to as the "Tennessee Warning." Included is information on confidentiality of the witness's statement. MNOSHA's ADM 3.6 directs the investigator to read the warning to non-management witnesses. During the FY 2015 review, three (16%) of the 19 files reviewed showed that the Tennessee Warning had been given to management witnesses. Observation FY 2015-OB-03 noted the concern and it was continued in the FY 2016 Follow-up FAME. During FY 2017, MNOSHA conducted audits of case files to ensure the Tennessee Warning was given appropriately. No concerns were noted in the files reviewed by the FY 2017 review team. Consequently, Observation FY 2016-OB-03 is closed.

MNOSHA does not require signed statements for witness interviews. Interviews are taped at the discretion of the investigator. Interviews are reduced to a memo to the file or transcribed at the discretion of the investigator. All transcription is done by the word processing unit in DLI.

### Docketing and Respondent Notification

Once a complaint has been determined to be appropriate for investigation, the investigator will docket the complaint and send the docket and notification letter to the complainant. In addition to the Complainant's Statement form, the complainant's letter includes dual filing rights, and is sent via certified mail. After MNOSHA receives the completed Complainant's Statement form, a docket and notification letter is sent to the respondent. The respondent is given 10 days to submit their response and supporting documentation.

### Final Investigation Report

MNOSHA has declined to change the name of the report to Report of Investigation as OSHA has done in order to be consistent with other federal agencies. MNOSHA only prepares a Final Investigation Report (FIR) when the complaint resulted in a full field investigation. Complaints that are closed for lack of cooperation, settlement, or withdrawals are closed with a memorandum to the supervisor or OMT Director. The FIR follows the criteria provided in OSHA's WIM. One area where MNOSHA differs is how case files are organized. While the FIR and memorandums outline the facts of the case, MNOSHA's files are not arranged in accordance with the WIM so that supporting exhibits are referenced and easily identified. Rather, contents of the files are scanned into MOOSE.

MNOSHA utilizes a written determination that adequately sets forth the determination and provides the respective party their right to review of the MNOSHA finding.

During the FY 2017 review, two (10%) of the 20 cases reviewed contained determinations contrary to the outcome of the case. Both cases were closed for lack of cooperation after the complainants requested to stop the investigation. The complainants were each provided an opportunity to request a review of the dismissal of their case. OSHA considers a request to stop an investigation a withdrawal, whether or not the request is in writing. Additionally, complainants who withdraw their complaint with OSHA are not provided an opportunity to appeal.

**Observation FY 2017-OB-03:** In two (10%) of the 20 whistleblower protection cases reviewed, the disposition of the case was incorrectly identified.

**Federal Monitoring Plan FY 2017-OB-03:** OSHA will discuss and evaluate MNOSHA's internal audits conducted in this area during quarterly monitoring meetings.

### Settlements

OSHA's WIM contains instruction that settlement agreements must not state or imply that OSHA or DOL is party to a confidentiality agreement. Settlement agreements are disclosed by OSHA to the public upon request in accordance with the Freedom of Information Act (FOIA), unless one of the FOIA exemptions applies. Similarly, MNOSHA Instruction ADM 3.7 Data Practices and Release of Case File Information states that settlement agreements must be released. On November 9, 2016, ADM 3.6 was updated to include a template settlement agreement.

In one (5%) of the 20 cases reviewed, the complainant indicated a resolution had been reached with the respondent. The case was considered a withdrawal in accordance with ADM 3.6. However, attempts were not made to ascertain whether a settlement agreement was reached, should be pursued, or the resolution was contrary to the intent of the Act.

No cases were settled during the period under review.

## Timeliness

The Occupational Safety and Health Act of 1970 (OSH Act) states the complainant shall be notified of the case determination within 90 days. However, 29 CFR 1977 indicates the deadline is a goal to strive to meet, not a requirement, as delays will occur. MNOSHA currently has three whistleblower investigators on staff and continues to look for ways to expedite investigations. During FY 2017, 46% of docketed cases were closed within 90 days. The topic is discussed during quarterly monitoring meetings throughout the year.

MNOSHA reports that delays have occurred while attempting to contact witnesses for interviews. OSHA's WIM requires that the activity/telephone log include all telephone calls made, messages received, and written or electronic correspondence exchanged during the course of an investigation. Accurate documentation is both a helpful chronological reference for the investigator or other reader of the file, and a helpful resource to resolve any difference of opinion concerning the course of events during the processing of the case. MNOSHA's Discrimination MOOSE Manual describes the phone log tab as used to document all conversations with the parties or witnesses to the case. In seven (35%) of the 20 cases reviewed, attempts to contact individuals by telephone were not documented.

## Whistleblower WebIMIS System Information

Prior to each Fiscal Year, the State Plan submits a grant application which contains a signed agreement entitled 23(g) OSHA Restrictions and Conditions. The document states, in part, "Any State developing an alternative or supplemental system must continue to provide data to OSHA that are identical to that required by the federal Information System and that are submitted in the same manner and to the same extent as though continuing to participate in the federal system."

MNOSHA does not currently enter administratively closed complaints into the WebIMIS, which was noted as a finding in the FY 2012 FAME and revisited during the FY 2013 onsite review.

All information is retained in MOOSE and is available to OSHA upon request. MNOSHA offered to enter administratively closed case information into WebIMIS, with OSHA's help, since MNOSHA would be entering the same data into both systems, creating a duplication of work. As an alternative, MNOSHA and OSHA signed a memorandum of understanding affirming MNOSHA's agreement to provide OSHA data related to administratively closed cases entered into MOOSE, upon request.

MNOSHA entries into the WebIMIS for docketed cases include party information and investigation information, and do not include case comments or additional tracking. In three (15%) of the 20 cases reviewed, inconsistencies were found in filing and adverse action dates entered in MOOSE and in WebIMIS.

**Observation FY 2017-OB-04:** In three (15%) of the 20 whistleblower protection cases reviewed, there were inconsistencies between filing and adverse action dates entered in MOOSE and in WebIMIS.

**Federal Monitoring Plan FY 2017-OB-04:** OSHA will discuss and evaluate MNOSHA's internal audits conducted in this area during quarterly monitoring meetings.

#### Program Management

MNOSHA primarily relies on their MOOSE, not WebIMIS, for tracking and management of whistleblower protection activity. The MNOSHA management team reviews activity reports from MOOSE on a monthly basis. Effective procedures are also in place to review appealed cases. Requests for review must be submitted in writing. When a complainant requests an appeal (review), the file and appeal are reviewed by the MNOSHA director and/or workplace safety manager. If there is a dispute or question regarding complaints that are screened and closed, the OMT Director is involved and additional investigation is conducted if necessary. All screened and referred complaints are tracked in MOOSE.

#### Resources

Investigators are provided with computers, digital recorders, and personal protective equipment. Based on the current new caseload, staffing of three investigators appears to be adequate. As previously noted, MNOSHA continues to focus on reducing the backlog, while completing new cases in a timely manner, in order to raise the percentage of cases completed within 90 days.

#### 8. COMPLAINT ABOUT STATE PROGRAM ADMINISTRATION (CASPA)

No CASPAs were received regarding MNOSHA during FY 2017.

#### 9. VOLUNTARY COMPLIANCE PROGRAM

##### Voluntary Protection Program (MNSTAR)

There were 10 voluntary protection program (MNSTAR) site evaluations conducted in Minnesota in FY 2017. One of the ten received the designation of MNSTAR for the first time, and the remaining nine were recertification evaluations. MNOSHA Instruction ADM 3.28 MNSTAR Voluntary Protection Program outlines how the state administers the program. MNOSHA's instruction follows OSHA's CSP 03-01-003 Voluntary Protection Programs (VPP): Policies and Procedures Manual. Applicants must meet the criteria contained in the MNOSHA Voluntary Protection Program instruction. In addition to requiring the company's injury and illness rate be below the national average for the industry, MNSTAR applicants' rates must also be below the state averages for the industry.

## Partnerships

MNOSHA Directive ADM 3.27 MNOSHA Strategic Partnership Plan is consistent with OSHA Strategic Partnership Program for Worker Safety and Health CSP 03-02-003 (November 6, 2013). There were two active Partnerships in place, and one new Partnership was signed during FY 2016 and continued in FY 2017. The three Partnerships were being administered appropriately by MNOSHA. MNOSHA's Partnerships are an extended voluntary cooperative relationship between MNOSHA and groups of employers, employees, employee representatives and interested stakeholders designed to encourage, assist, and recognize efforts to eliminate serious hazards and achieve a high degree of worker safety and health.

## Alliances

MNOSHA is not required to have an Alliance program similar to the OSHA Alliance Program CSP 04-01-002. However, MNOSHA's Workplace Safety Consultation (WSC) has administered a program since 2004. In October 2016, MNOSHA developed their own written program in response to updates made by OSHA. MNOSHA and Alliance participants work together to reach out to educate and lead Minnesota's employers and their employees in advancing workplace safety and health.

During FY 2016, one new Alliance was established with the Minnesota Department of Health to create a training video on workplace violence prevention and de-escalation techniques. The group also collaborated with the U.S. Department of Veterans Affairs during a week-long training program.

During FY 2017, two new Alliances were established. WSC worked with a network of skilled nurses to establish a venue for discussion of safe patient handling in long-term care facilities. A new campus-specific Alliance was established with a community and technical college to incorporate safety into the curriculum.

## 10. STATE AND LOCAL GOVERNMENT 23(g) ON-SITE CONSULTATION PROGRAM

MNOSHA conducted 97 onsite consultation visits in state and local government during FY 2016, which exceeded the grant projection of 70 visits. A total of 60 (91%) of the 66 initial visits were coded as high hazard visits, as defined by MNOSHA's high hazard emphasis program. (Source: Mandated Activities Report for Consultation (MARC) dated November 4, 2016)

During FY 2017, MNOSHA conducted 110 state and local government consultation visits, which is 147% of their grant projection of 75. A total of 69 (88%) of the 78 initial visits were coded as high hazard visits. During FY 2017, 151 serious hazards were identified and corrected. All but one of the hazards were verified and corrected in a timely manner. (Source: MARC dated November 13, 2017)





**Appendix A – New and Continued Findings and Recommendations**  
FY 2017 MNOSHA Comprehensive FAME Report

FY 20XX-#	Finding	Recommendation	FY 20XX-# or FY 20XX-OB-#
	None		

## Appendix B – Observations and Federal Monitoring Plans

### FY 2017 MNOSHA Comprehensive FAME Report

Observation # FY 2017-OB-#	Observation # FY 2016-OB-# or FY 2016-#	Observation	Federal Monitoring Plan	Current Status
	FY 2016-OB-01	Whistleblower case files did not contain information from enforcement case files to support or negate allegations in the case.	OSHA will periodically check case files to ensure information from enforcement case files is included in worker retaliation case files.	Closed
	FY 2016-OB-02	MNOSHA did not send a closing letter to the complainant for administratively closed cases and, in the alternative, did not note that the complainant declined to receive a letter.	Whistleblower cases will be discussed and evaluated during quarterly monitoring meetings.	Closed
	FY 2016-OB-03	The “Tennessen Warning” was provided to management witnesses whose interview statements are not considered confidential.	Whistleblower cases will be discussed and evaluated during quarterly monitoring meetings.	Closed
FY 2017-OB-01		In three of the 36 (8%) complaint-related files reviewed, a letter was not sent to the complainant with information on the outcome of the complaint.	OSHA will discuss and evaluate MNOSHA’s internal audits conducted in this area during quarterly monitoring meetings.	New
FY 2017-OB-02		MNOSHA’s listed criteria for inspecting employer-reported injuries and illnesses, contained in MN ADM 3.16, focuses on the type and severity of the injury or illness that had occurred, rather than factors such as history of the employer, youth and other vulnerable workers, hazard included in an emphasis program, and continuance or abatement of a hazard. Further, in four (80%) of the five employer-reported injuries selected during the FY 2017 review, MNOSHA’s decision to not inspect the injury was contrary to their own listed criteria.	OSHA will discuss and evaluate MNOSHA’s internal audits conducted in this area during quarterly monitoring meetings.	New
FY 2017-OB-03		In two (10%) of the 20 whistleblower protection cases reviewed, the disposition of the case was incorrectly identified.	OSHA will discuss and evaluate MNOSHA’s internal audits conducted in this area during quarterly monitoring meetings.	New
FY 2017-OB-04		In three (15%) of the 20 whistleblower protection cases reviewed, there were inconsistencies between filing and adverse action dates entered in MOOSE and in WebIMIS.	OSHA will discuss and evaluate MNOSHA’s internal audits conducted in this area during quarterly monitoring meetings.	New

## Appendix C - Status of FY 2016 Findings and Recommendations

### FY 2017 MNOSHA Comprehensive FAME Report

FY 20XX-#	Finding	Recommendation	State Plan Corrective Action	Completion Date (if Applicable)	Current Status (and Date if Item is Not Completed)
FY 2016-01	Potential opportunities have not been taken to perform worker exposure monitoring for the purpose of documenting worker exposure for the complete evaluation of a condition discovered during the inspection. Ten of 18 (56%) programmed comprehensive inspections appeared to miss reasonable opportunities to conduct exposure monitoring for serious health hazards.	Ensure exposure monitoring is conducted to evaluate and document worker exposure to health hazards.	Documentation of exposures was discussed with all health staff on September 8, 2016 and December 8, 2016. On October 19, 2016, three senior industrial hygienists were assigned to report to the IH Supervisor to ensure exposure monitoring file adequacy during the review process.	12/28/2016	Completed

## Appendix D - FY 2017 State Activity Mandated Measures (SAMM) Report

### FY 2017 MNOSHA Comprehensive FAME Report

U.S. Department of Labor				
Occupational Safety and Health Administration State Plan Activity Mandated Measures (SAMMs)				
State Plan: Minnesota - MNOSHA			FY 2017	
SAMM Number	SAMM Name	State Plan Data	Further Review Level	Notes
<b>1a</b>	Average number of work days to initiate complaint inspections (state formula)	3.38	9	The further review level is negotiated by OSHA and the State Plan.
<b>1b</b>	Average number of work days to initiate complaint inspections (federal formula)	2.36	N/A	This measure is for informational purposes only and is not a mandated measure.
<b>2a</b>	Average number of work days to initiate complaint investigations (state formula)	0.95	2	The further review level is negotiated by OSHA and the State Plan.
<b>2b</b>	Average number of work days to initiate complaint investigations (federal formula)	0.81	N/A	This measure is for informational purposes only and is not a mandated measure.
<b>3</b>	Percent of complaints and referrals responded to within one workday (imminent danger)	98.86%	100%	The further review level is fixed for all State Plans.
<b>4</b>	Number of denials where entry not obtained	0	0	The further review level is fixed for all State Plans.
<b>5</b>	Average number of violations per inspection with violations by violation type	SWRU: 1.86	+/- 20% of SWRU: 1.83	The further review level is based on a two-year national average. The range of acceptable data not requiring further review is from 1.46 to 2.20 for SWRU and from 0.79 to 1.19 for OTS.

## Appendix D - FY 2017 State Activity Mandated Measures (SAMM) Report

### FY 2017 MNOSHA Comprehensive FAME Report

		Other: 0.70	+/- 20% of Other: 0.99	
<b>6</b>	Percent of total inspections in state and local government workplaces	5.11%	+/- 5% of 3.00%	The further review level is based on a number negotiated by OSHA and the State Plan through the grant application. The range of acceptable data not requiring further review is from 2.85% to 3.15%.
<b>7</b>	Planned v. actual inspections – safety/health	S: 1,446	+/- 5% of S: 1,445	The further review level is based on a number negotiated by OSHA and the State Plan through the grant application. The range of acceptable data not requiring further review is from 1,372.75 to 1,517.25 for safety and from 337.25 to 372.75 for health.
		H: 412	+/- 5% of H: 355	
<b>8</b>	Average current serious penalty in private sector - total (1 to greater than 250 workers)	\$1,010.09	+/- 25% of \$2,516.80	The further review level is based on a two-year national average. The range of acceptable data not requiring further review is from \$1,887.60 to \$3,146.00.
	a. Average current serious penalty in private sector (1-25 workers)	\$783.03	+/- 25% of \$1,706.10	The further review level is based on a two-year national average. The range of acceptable data not requiring further review is from \$1,279.58 to \$2,132.63.
	b. Average current serious penalty in private sector (26-100 workers)	\$728.26	+/- 25% of \$2,867.94	The further review level is based on a two-year national average. The range of acceptable data not requiring further review is from \$2,150.96 to \$3,584.93.
	c. Average current serious penalty in private sector (101-250 workers)	\$1,748.91	+/- 25% of \$3,952.26	The further review level is based on a two-year national average. The range of acceptable data not requiring further review is from \$2,964.20 to \$4,940.33.
	d. Average current serious penalty in private sector (greater than 250 workers)	\$2,186.70	+/- 25% of \$5,063.48	The further review level is based on a two-year national average. The range of acceptable data not requiring further review is from \$3,797.61 to \$6,329.35.
<b>9</b>	Percent in compliance	S: 34.38%	+/- 20% of S: 29.53%	The further review level is based on a two-year national average. The range of acceptable data not requiring further review is from

## Appendix D - FY 2017 State Activity Mandated Measures (SAMM) Report

### FY 2017 MNOSHA Comprehensive FAME Report

		H: 43.04%	+/- 20% of H: 35.78%	23.62% to 35.44% for safety and from 28.62% to 42.94% for health.
<b>10</b>	Percent of work-related fatalities responded to in one workday	100%	100%	The further review level is fixed for all State Plans.
<b>11</b>	Average lapse time	S: 18.64	+/- 20% of S: 45.29	The further review level is based on a two-year national average. The range of acceptable data not requiring further review is from 36.23 to 54.35 for safety and from 44.82 to 67.24 for health.
		H: 24.19	+/- 20% of H: 56.03	
<b>12</b>	Percent penalty retained	89.44%	+/- 15% of 67.44%	The further review level is based on a two-year national average. The range of acceptable data not requiring further review is from 57.32% to 77.56%.
<b>13</b>	Percent of initial inspections with worker walk around representation or worker interview	100%	100%	The further review level is fixed for all State Plans.
<b>14</b>	Percent of 11(c) investigations completed within 90 days	46%	100%	The further review level is fixed for all State Plans.
<b>15</b>	Percent of 11(c) complaints that are meritorious	12%	+/- 20% of 25%	The further review level is based on a three-year national average. The range of acceptable data not requiring further review is from 20% to 30%.
<b>16</b>	Average number of calendar days to complete an 11(c) investigation	126	90	The further review level is fixed for all State Plans.
<b>17</b>	Percent of enforcement presence	1.59%	+/- 25% of 1.26%	The further review level is based on a two-year national average. The range of acceptable data not requiring further review is from 0.95% to 1.58%.

NOTE: Fiscal Year 2017 is the second year since the transition from the NCR (OSHA's legacy data system) began that all State Plan enforcement data has been captured in OSHA's Information System (OIS). As such, the further review levels for SAMMs typically referencing a three-year rolling average will instead rely on a two-year average this year. Unless otherwise noted, the data contained in this Appendix D is pulled from the State Activity Mandated Measures (SAMM) Report in OIS and the State Plan WebIMIS report run on November 13, 2017, as part of OSHA's official end-of-year data runs.

**Appendix E - FY 2017 State OSHA Annual Report (SOAR)**

FY 2017 MNOSHA Comprehensive FAME Report

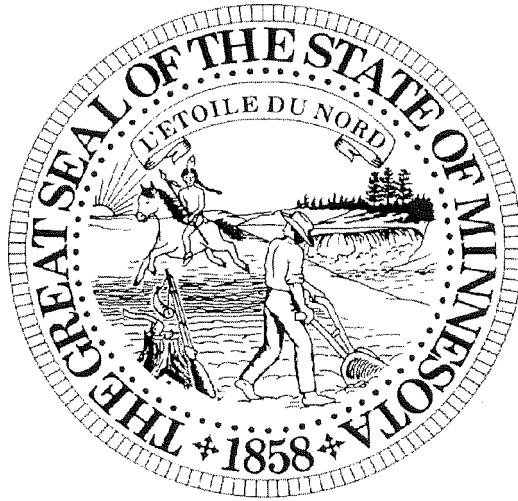
**FFY 2017**

**Minnesota Occupational Safety & Health Compliance  
State OSHA Annual Report (SOAR)**

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***MNOSHA - 23g***

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***December 2017 [Final]***

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**SOAR for FFY2017**  
**Minnesota Occupational Safety & Health Compliance (OSH)**

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## SOAR for FFY2017

### Minnesota Occupational Safety & Health Compliance (OSH)

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#### INTRODUCTION

The Minnesota Occupational Safety and Health (MNOSHA) program is administered by the Minnesota Department of Labor and Industry (DLI); the program became effective on August 1, 1973, with final State Plan approval being obtained on July 30, 1985. MNOSHA includes the Occupational Safety and Health (OSH) Compliance Division, which is responsible for compliance program administration (conducting enforcement inspections, adoption of standards, and operation of other related OSHA activities) and the Workplace Safety Consultation (WSC) Division which provides free consultation services, on request, to help employers prevent workplace accidents and diseases by identifying and correcting safety and health hazards.

MNOSHA's mission is: "To make sure every worker in the State of Minnesota has a safe and healthful workplace." This mandate involves the application of a set of tools by MNOSHA including standards development, enforcement, compliance assistance, and outreach which enable employers to maintain safe and healthful workplaces.

MNOSHA's vision is to be a leader in occupational safety and health and make Minnesota's workplaces the safest in the nation. MNOSHA is striving for the elimination of workplace injuries, illnesses, and deaths so that all of Minnesota's workers can return home safely. MNOSHA believes that to support this vision, the workplace must be characterized by a genuine, shared commitment to workplace safety by both employers and workers, with necessary training, resources, and support systems devoted to making this happen.

The Minnesota Occupational Safety and Health Strategic Plan for FFY2014 to 2018 established three strategic goals:

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#### MNOSHA Compliance (OSH) Strategic Goals

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Goal 1: Reduce occupational hazards through compliance inspections

Goal 2: Promote a safety and health culture through compliance assistance, outreach, cooperative programs and strong leadership

Goal 3: Strengthen and improve MNOSHA's infrastructure

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The FFY2017 Performance Plan provided the framework for accomplishing the goals of the MNOSHA Strategic Plan by establishing specific performance goals for FFY2017. This SOAR presents a review of the strategies used and results achieved in FFY2017. Special accomplishments as well as the successful completion of mandated activities are also discussed.

GOAL SUMMARIES - SOAR for FFY2017  
Minnesota Occupational Safety and Health (MNOSHA) Compliance  
**SUMMARY OF ANNUAL PERFORMANCE PLAN RESULTS**

With few exceptions, MNOSHA Compliance's FFY2017 performance goals have been achieved. Each of the FFY2017 Performance goals and the activities and strategies used to achieve those goals are described below. Comments/discussion relating to accomplishment of Goal sub-items follows each chart

**Goal 1: Reduce occupational hazards through compliance inspections**

How Progress in Achieving this Goal Will be Assessed	Baseline 9/30/13	FFY 17 Target	FFY 17 Results
1. Reduce Total Recordable Cases (TRC) Rate	BLS data CY 5-year average using the 5 years prior to the target year <sup>1</sup> CY 2011-2015 avg.: .3.8	Reduction in TRC rate from the previous 5-year avg. CY 2011-2015 avg.: 3.8	Consistent reduction <i>over</i> five-year plan.  CY 2016 TRC rate: 3.4, a 10.53% reduction Consistent
2. Reduce fatality rate <sup>2</sup> for fatalities within MNOSHA's jurisdiction	<sup>3</sup> DEED & MNOSHA data FY 5-year average using the 5 years prior to the target year FY 2012-2016 avg.: .646	Reduction in fatality rate from the previous 5-year avg. FY 2012-2016 avg.: .646	reduction <i>over</i> five-year plan.  FY 2017 fatality rate: .639 a 1% decrease
3. Number of hazards identified & establishments visited:			
a) Total hazards identified/ establishments visited	MNOSHAdata FY 2008 -2012 avg.: 4718 / 2577	NIA	3000 / 1858
b) Establishment emphasis'	NIA	64% of all programmed inspections	91% of all programmed inspections
1. <u>Inspection emphasis</u>			
23 Construction			
311 Food mfg.			
312 Beverage & tobacco product mfg.			
321 Wood product mfg.			
323 Printing & related support activities 326			
Plastics & rubber products mfg.			
327 Nonmetallic mineral product mfg. 331			
Primary metal mfg.			
332 Fabricated metal product mfg. 333			
Machinery mfg.			
336 Transportation equipment mfg. 337			
Furniture & related product mfg.			
424 Merchant wholesalers, nondurable goods 441			
Motor vehicle & parts dealers			
721 Accommodation			
811 Repair & maintenance			
Public Sector (State & Local Gov't & Schools)			
2. <u>National Emphasis Programs</u>			
Amputations - General Industry			
Combustible Dust - General Industry			
Lead - Health			
PSM-Health Silica			
- Health			
Trenching Hazards - Construction			
3. <u>Local Emphasis Programs</u>			
Foundries - General Industry & Health			
Grain Facilities - General Industry			
Healthcare - General Industry & Health			
Hexavalent Chromium - Health Isocyanates			
- Health			
Meat Packing-General Industry & Health			
Window Washing - General Industry			
4. <u>Pilot Emphasis Program</u>			
Temp Employees & Employment Agencies			
c) Ergo, Workplace Violence & Safe Patient Handling, including hospitals, surgical centers, nursing homes	Current practice  MNOSHA data	Ongoing support of WSC's Ergo & SPH effort	See below
4. Percent of designated programmed inspections	FY 2008-2012 avg.: 86%	86%	76%

<sup>1</sup>BLS data for the last year of five-year average is not available until December.

<sup>2</sup>Fatality rate is calculated as the number of fatalities per 100,000 workers: (# MNOSHA fatalities/# of MN employed workers) x 100,000

<sup>3</sup>Minnesota Department of Employment and Economic Development.

<sup>4</sup>The quantity of programmed inspections is variable; therefore, no defined number is provided.

## GOAL 1 - Comments

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### Goal 1.1

Reduce total recordable cases: FFY17 target = reduction in TRC from the previous 5-year average, and a consistent reduction over the five-year plan.

The TRC for calendar year 2016 decreased 10.53% from the previous 5-year average.

### Goal 1.2

Reduction in state fatality rate: FFY17 target = reduction in fatality rate from the previous 5-year average, and a consistent reduction over the five-year plan.

The fatality rate for FFY 2017 decreased 1% from the previous 5-year average. There were 18 fatalities (17 incidents) in Minnesota in FFY 2017, and the rate of fatalities (.639) was lower than the average rate of fatalities for FFY 2012-2016 (.646). MNOSHA continues to conduct inspections according to its policies, and also continues to address workplace fatalities in its outreach materials, and during outreach presentations and seminars.

### Goal 1.3

Hazards abated/ establishments visited: FFY17 target= 64% of all programmed inspections conducted in emphasis industries.

In FFY 2017, MNOSHA investigators conducted 1858 inspections where 3000 hazards were identified and cited. Sixty-four percent (64%) of the inspections conducted resulted in violations; 71% of violations were cited serious. MNOSHA continues to create incentives for employers to address safety and health issues through strong, fair, and effective enforcement of safety and health regulations. MNOSHA focused its programmed inspections to reduce injuries, illnesses, and fatalities in certain emphasis industries.

The FFY 2017 goal was for 64% of all programmed inspections conducted to be in the emphasis industries. MNOSHA met this goal. MNOSHA conducted 91% of all programmed inspections in the emphasis industries.

MNOSHA has issued citations to temporary employers depending on the supervisory role of the temporary employer at a particular worksite. In FFY 2017, MNOSHA conducted 6 inspections involving temporary employment agencies, as a result of complaints, serious injuries or fatalities.

As part of an ergonomic focus, MNOSHA conducted 38 programmed inspections in the meat processing industry and healthcare industries.

**GOAL SUMMARIES = SOAR for FFY2017**  
 Minnesota Occupational Safety and Health (MNOSHA) Compliance (cont'd)  
 SUMMARY OF ANNUAL PERFORMANCE PLAN RESULTS

*Goal 2*

*Promote a safety and health culture through compliance assistance, outreach, cooperative programs, and strong leadership*

How Progress in Achieving this Goal Will be Assessed	Baseline 9/30/13	FFY 17 Target	FFY 17 Results
1. Increase or maintain:			
a. Partnerships	# of FFY13 partnerships: 3	Maintain	(See comments following chart [2.1a,c])
b. Voluntary Protection Programs (MNSTAR)	# of FFY13 MNSTAR sites: 33	1 new and 3 recerts	1 new and 9 recerts (See comments following chart [2.1.b])
c. Continue to identify compliance assistance opportunities <sup>1</sup>	Current practice	Ongoing	(See comments following chart [2.1a,c])
f. Alliances <sup>2</sup>	N/A	1 new	2 new & 3 renewed (See comments following chart [2.1.f])
2. Maintain total number of people participating in OSHA outreach/training in areas such as:	FY 2008-2012 avg.: 4,063	Maintain	3,609
a. Youth			
b. Immigrant employers and employees			
c. Emerging businesses			
d. Construction			
e. Manufacturing			
f. Discrimination			
g. Other strategic plan compliance/consultation emphases			
h. Public sector			
3. Participate in homeland security efforts at state and national levels	Current practice	Ongoing	Ongoing (See comments following chart [2.3])
4. Maintain response time and/or service level to stakeholders in areas such as:	Current practice	Ongoing	Ongoing (See comments following chart) [2.4]
a. Telephone inquiries and assistance			
b. Written requests for information			
c. MNOSHA website information/updates			

<sup>1</sup>The compliance assistance activities are incorporated in various places, including Goals 1 and 2.

<sup>2</sup>The Goal 2.1.f. target of 1 new Alliance was projected in the Consultation FFY 2017 CAPP. Alliances in the public sector are reported in the SOAR.

### Goal 2.1a.c -

#### Compliance Assistance (including maintaining 3 partnerships) in FFY17.

MNOSHA's construction safety and health partnerships with the Minnesota Chapter of Associated Builders and Contractors (MN ABC) and with Associated General Contractors (AGC) of Minnesota are designed to help reduce the number of injuries, illnesses and fatalities at participating construction industry employers.

The partnership is managed by both associations and has three levels. Level 1 requires the employer to maintain the minimum requirements of a safety and health program. Level 2 requires a more comprehensive safety and health program. Level 3 is MNOSHA's Cooperative Compliance Partnership (CCP) program, whereby MNOSHA Compliance will provide compliance assistance for a specific project. To qualify, contractors must be at Level 2 for a minimum of one year and can then apply for participation in the CCP program for construction projects expected to last at least six months, but fewer than 18 months.

In FFY 2017, MNOSHA signed Cooperative Compliance Partnership agreements with ten Level 3 individual contractors at 11 specific construction sites. MNOSHA continued with the Partnership agreement with MNDOT and two contractors for a joint venture for the construction of the St. Croix Bridge's superstructure. This was a separate partnership. This partnership was designed to establish a cooperative effort in ensuring safety and maintaining an open line of communication between MNOSHA and the contractors on the worksite. This project was completed in August 2017.

In FFY 2016, MNOSHA signed a partnership with MNDOT and another contractor for the Highway 53 relocation project in Virginia, MN. This project was near completion at FFY 2017's end.

MNOSHA continues to strive to improve communication with immigrant and "hard-to-reach" employers and employees. MNOSHA employs two investigators who are fluent in both English and Spanish, and WSC employs a Spanish-speaking consultant as well. MNOSHA had one presentation with the Mexican Consulate discussing OSHA, with 50 people attending. MNOSHA staff has also given, in Spanish, four presentations to a total of 128 union carpenters. This has been well received by the community. In addition, MNOSHA provides written materials to immigrant and other hard-to-reach employers in coordination with the Department's community services representative.

### Goal 2.1.b

#### Increase VPPs by 1 new and 3 re-certifications in FFY17.

MNSTAR is a voluntary protection program available to any size employer in Minnesota. The MNSTAR program relies mainly on the concept of self-assessment by the requesting employer and follows ADM 3.28J which is the Minnesota specific MNSTAR NPP directive. MNSTAR requires the employer's commitment to complete an extensive application, which includes providing the WSC Unit with copies of all requested written policies and programs. The employer's TCIR and DART injury and illness rates must be below the national averages, for their industry. Employers who meet all requirements for MNSTAR status are exempt from programmed inspections by MNOSHA Compliance for up to three years, upon initial certification, and up to five years upon subsequent re-certification. The MNSTAR VPP has been very successful since its inception in FFY 1999. MNSTAR status has been awarded to both large and small employers in high-hazard and in state-targeted industries. FFY 2017 ended with 36 full STAR sites and 1 Merit Site. One new site (Cintas FAS - Brooklyn Park) was granted full STAR status, meeting the FFY 2017 goal. Nine companies were re-certified in some form of MNSTAR status; one employer (HB Fuller, Inc.) is completing abatement and will be withdrawing; one employer (Alexandria Extrusion) was placed into a two-year rate reduction program; and 5 employers (International Paper, Trident Seafoods, NYCO Inc, Delta Airlines - MN Reservations, Firmenich - New Ulm) successfully achieved full re-certification as MNSTAR sites, also meeting the FFY 2017 goal. There continues to be one Merit participant (NRG Energy Center).

All active MNSTAR certified companies for FFY 2017 are listed below:

No	Company Name	Address	Contact Information	EE	SIC	NAICS	Dates
1	CF Industries, Inc., Glenwood Terminal	19369 195th A venue PO Box 20 Glenwood, MN 56334-0020	<b>Darrel Kollman</b> Terminal Superintendent (320) 634-5134 <a href="mailto:dckfgina@cfindustries.com">dckfgina@cfindustries.com</a>	10	5191	424910	Apr 17 2000 - Apr 17, 2003 Apr 17 2008 - Apr 17, 2013 Apr 17, 2013 - Apr 17, 2018 Scheduled Nov. 7-8, 2017
2	Marvin Windows and Doors	Hwy. 11 West; PO Box 100 Warroad, MN 56763-0100	<b>Brian Gilbert - Main Contact</b> EHS Manager <a href="mailto:briangi@marvin.com">briangi@marvin.com</a> 218-386-1430 ext. 1809 <b>Marti Stevens</b> 218-386-4358 - Marti <a href="mailto:martis@marvin.com">martis@marvin.com</a>	2,560	2431	321911	Aug 1 2001 - Aug 1, 2004 Aug 1, 2009-Aug 1, 2014 Aug 1, 2014-Aug 1, 2019
3	Potlatch Corp. - Bemidji Lumbermill	50518 County 45 Bemidji, MN 56601	<b>Susan Kaplan &amp; Randy Lipsey</b> HR Manager & Safety Manager 218-759-4308 <a href="mailto:susanm.kaplan@potlatchcorp.com">susanm.kaplan@potlatchcorp.com</a> <a href="mailto:randy.lipsey@potlatchcorp.com">randy.lipsey@potlatchcorp.com</a>	94	2421	321113	June 1, 2002 - June 1, 2005 June 1, 2010 - June 1, 2015 June 1, 2015 - June 1, 2020
4	IBM	3605 Highway 52 North Mail Stop EQ9A IBM Well-being Services Dept. UONA/002-1 H105 Rochester, MN 55901	Randy Back Safety engineer (507) 253-1441 <a href="mailto:rback@us.ibm.com">rback@us.ibm.com</a>	2,677	3571	334111	Jul 16, 2002 - Jul 16, 2005 Jul 16, 2010 - Jul 16, 2015 Jul 16, 2015 - Jul 16, 2020
5	New Ulm Medical Center	1324 Fifth North Street PO Box 577 New Ulm, MN 56073	<b>Kathy Thompson</b> Quality Manager/Safety Officer 507-217-5986 <a href="mailto:Kathi.thom2son@allina.com">Kathi.thom2son@allina.com</a>	470	2421	622110	Mar 7, 2003 - Mar 7, 2006 Mar 7, 2006 - Mar 7, 2011 Mar 7, 2011 - Mar 7, 2012 Mar 7, 2012 - Mar 7, 2016 Mar 7, 2016 - Mar 7, 2021
6	Alexandria Extrusion Company North	401 County Road 22 NW Alexandria, MN 56308	<b>Chris Ebnet</b> E S&H Coordinator 320-762-7650 <a href="mailto:cebnet@alexandriaindustries.com">cebnet@alexandriaindustries.com</a>	295	3354	331316	Sept 30, 2003 - Sept 30, 2006 Sept 30, 2008 - Sept 30, 2013 Mar 1, 2012 - Mar 1, 2013 Sept 30, 2013 - Sept 30, 2018 2YRR - Jan 2017 - December 2019
7	International Paper	1699 West Ninth Street White Bear Lake, MN 55110	<b>Ryan Steen</b> Production Manager 651-426-6222 <a href="mailto:ryan.steen@ipaper.com">ryan.steen@ipaper.com</a>	132	2653	322211	Jul 22, 2004 - Jul 22, 2007 Jul 22, 2007 - Jul 22, 2012 Jul 22, 2012 - Jul 22, 2013 Jul 22, 2012 - July 22, 2017 Jul 22, 2017 - July 22, 2022
8	Louisiana-Pacific Corp.	711 25th Avenue Two Harbors, MN 55616	<b>Steve Twining</b> Plant Manager 218-834-8700 <a href="mailto:steve.twining@lpcorp.com">steve.twining@lpcorp.com</a>	143	2493	321219	Apr 15, 2005 - Apr 15, 2008 Apr 15, 2008 - Apr 15, 2013 Apr 15, 2013 - Apr 15, 2018 Scheduled January 22-26, 2018
9	Flint Hills Resources, Pine Bend Refinery	PO Box 64596 St. Paul, MN 55164-0596	Sue Tittle Safety Contact 651-438-1304 <a href="mailto:Sue.titel@fhr.com">Sue.titel@fhr.com</a>	830	2911	324110	Dec 21, 2005 - Dec 21, 2008 Dec 21, 2008 - Dec 21, 2013 Mar 1, 2012-Mar 1, 2013 Dec 21, 2013 - Dec 21, 2018
10	Aptim Services, LLC (formerly CBI Services, Inc.)	12555 Clari< Road Box 64596 Rosemont, MN 55268	<b>Jason Nardiello</b> Project Manager <a href="mailto:jason.nardiello@fhr.com">jason.nardiello@fhr.com</a> <a href="mailto:jason.nardiello@at2tim.com">jason.nardiello@at2tim.com</a> 651-438-5864 612-246-7002 (cell)	300	1629	236210	Sept 19, 2006 - Sept 19, 2009 Sept 19, 2009 - Sept 19, 2014 Sept 19, 2014 - Sept 19, 2019
11	Valmont Industries, Inc.	20805 Eaton A venue Farmington, MN 55024	<b>Jeff Girdner</b> MNSTAR Contact 651-463-9121 <a href="mailto:jeffrey.girdner@valmont.com">jeffrey.girdner@valmont.com</a> Steve Tietz - as of 1/1/16 <a href="mailto:steven.tietz@valmont.com">steven.tietz@valmont.com</a>	123	3446	332323	June 1, 2007 - June 1, 2010 June 1, 2010-June 1, 2011 June 1, 2010 - June 1, 2015 June 1, 2015 - June 1, 2020
12	Monsanto Company - Soybean Research	29770 US Highway 71 Redwood Falls, MN 56283	<b>Aaron Kramer</b> Testing Operations Manager 507-644-3011 ext 1 <a href="mailto:aaron.l.kramer@monsanto.com">aaron.l.kramer@monsanto.com</a> <a href="mailto:benjamin.t.zychalski@monsanto.com">benjamin.t.zychalski@monsanto.com</a>	6	713	115114	Aug 27, 2007 - Aug 27, 2010 Aug 27, 2010 - Aug 27, 2015 Aug 27, 2015 - Aug 27, 2020
13	Honeywell Defense & Space	12001 State Hwy. 55 Plymouth, MN 55441	<b>Jay Rodstein/Jim Tischner</b> HSE engineer 763-954-2718 <a href="mailto:jay.rodstein@honeywell.com">jay.rodstein@honeywell.com</a> <a href="mailto:james.tischner@honeywell.com">james.tischner@honeywell.com</a>	550	3674	334413	Dec 3, 2007 - Dec 3, 2010 Dec 3, 2010 - Dec 3, 2015 Dec 3, 2015 - Dec 3, 2020
14	Liberty Paper, Inc.	13500 Liberty Lane Becker, MN 55308	<b>John Martin</b> Safety Manager 763-261-6106 or 763-301-0809 (cell) <a href="mailto:johnmartin@liberty12aer.com">johnmartin@liberty12aer.com</a>	110	2631	322130	Feb 14, 2008 - Feb 14, 2011 Feb 14, 2011 - Feb 14, 2016 Feb 14, 2016 - Feb 14, 2018 2YRR

15	Monsanto Company - Soybean Production	29770 U.S. Hwy. 71 Redwood Falls, MN 56283	Dana Jacobs Site Lead 507-644-2108 dustin.randell.woodford@monsanto.com Dustin Woodford - VPP Contact benjamin.lzvchalski@monsanto.com	35	713	115114	July 25, 2008 - July 25, 2011 July 25, 2011 - July 25, 2016 July 25, 2016 - July 25, 2021
16	HB Fuller Company	5220 Main Street Fridley, MN 55421	Joseph Graf 651-236-1624 jose.h.graf@hbfuller.com	35	2891	325520	Aug 14, 2008 - Aug 14, 2011 Aug 14, 2011 - Aug 14, 2012 Aug 14, 2011-Aug 14, 2016 Aug 14, 2016 - Aug 14, 2017 <b>1YC</b>
17	Aveda Corporation	4000 Pheasant Ridge Drive NE Blaine, MN 55449-7106	Kim Yoakum Safety and Risk Mgmt. Manager 763-951-4252 ky_oakum@aveda.com	647	2844	325620	Dec 17, 2008 - Dec 17, 2011 Dec 17, 2011-Dec 17, 2016 Dec 17, 2016 - Dec 17, 2021
18	Aveda Services, Inc. - Midwest Distribution Center	3860 Pheasant Ridge Drive NE Blaine, MN 55449-7106	Kim Yoakum Safety and Risk Mgmt. Manager 763-951-4252 ky_oakum@aveda.com	194	4225	493110	Dec 17, 2008 - Dec 17, 2011 Dec 17, 2011-Dec 17, 2013 2yr RR plan based on elevated rts Dec 17, 2011-Dec 17, 2016 Dec 17, 2016 - Dec 17, 2021
19	Trident Seafoods Corporation	1348 Hwy 10 S P.O Box 440 Motley, MN 56466	Scott Bacher Safety & risk manager 218-352-2323 sbacher@tridentseafoods.com	350	2092	311712	Feb 6, 2009 - Feb 6, 2012 Feb 6, 2012 - Feb 6, 2013 Feb 6, 2012 - Feb 6, 2017 Feb. 6, 2017 - Feb. 6, 2020
20	Danfoss Power Solutions	3500 Annapolis Lane N Plymouth, MN 55447	David Lamm EH&S Leader 763-694-2144 dlamm@sauer-danfoss.com	140	3629	335999	Jun 17, 2011 - Jun 17, 2014 Jun 17, 2014 - Jun 17, 2019
21	Monsanto - Stanton	2440 Hwy 19 Blvd Stanton, MN 55018	Becky Sockness Kevin Barrett kabarr@monsanto.com 507-263-6937 - Becky benjamin.t.zychalski@monsanto.com	14	723	115114	Aug 1, 2012 - Aug 1, 2015 Aug 1, 2015 - Aug 1, 2020
22	The Valspar Corporation - Headquarters and VAST Campus	312 South 11th Ave Minneapolis, MN 55415	Mark Friske HSE Manager 612-375-7370 mfriske@valsear.com	413	2851	325510	Jan. 1, 2013 - Jan. 1, 2016 Jan. 1, 2016 - Jan. 1, 2021
23	Monsanto - Glyndon	11486 12th AVB S Glyndon, MN 56547	Keith Jackson Site Manager keith.j.jackson@monsante.com 218-498-0267 Daphne Horton - Admin	15	723	115114	Feb 15, 2013 - Feb 15, 2016 Feb 15, 2016 - Feb 15, 2021
24	SUEZ Water Technologies & Solutions (Formerly GE Water & Process Technologies)	5951 Clearwater Drive Minnetonka, MN 55343 - 8995 Lori.thomas@sucz.com mollx.ball@suez.com	Vicki Fisher Midwest Operational Excellence Leader 952-988-6695 vicki.fisher@suez.com david12aul.crisman@suez.com	450	3999	333319	May 1, 2013 - May 1, 2016 2yr RR plan based on_ elevated rts May 1, 2016 - May 1, 2018
25	Norbord Minnesota, LLC	4409 Northwood Road NW Solway, MN 56678	Dean Bentler Safety Coordinator dean.bentler@norbord.com 218-751-2023	141	2436	321219	July 1, 2013 - July 1, 2016 July 1, 2016 - July 1, 2021
26	NuStar Energy - Roseville Terminal	2288 County Road C West Roseville, MN 55133	Mike Moore SR Operations Manager 651-636-1780 mike.moore@NuStarEnergy.com	11	4226	493190	Oct 15, 2013 - Oct 15, 2016 Oct 15, 2016 - Oct 15, 2021
27	NuStar Energy - Moorhead Terminal	1101 SE Main Avenue Moorhead, MN 56560	Mike Moore SR Operations Manager 651-636-1780 mike.moore@NuStarEnergy.com	5	4226	493190	Oct 15, 2013 - Oct 15, 2016 Oct 15, 2016 - Oct 15, 2021
28	NuStar Energy - Sauk Centre Terminal	1833 Beltline Road Sauk Centre, MN 56378	Mike Moore SR Operations Manager 651-636-1780 mike.moore@NuStarEnergy.com	3	4226	493190	Oct 15, 2013 - Oct 15, 2016 Oct 15, 2016 - Oct 15, 2021
29	Nyce, Inc.	10730 Briggs Drive, Suite B Inver Grove Heights, MN 55077	brantley.grekoIT@nycoinc.us Project Manager 612-325-7280	53	1799	238290	May 1, 2014-May 1, 2017 May 1, 2017-May 1, 2022
30	Delta Air Lines - Minneapolis Reservations Customer Engagement Center	7500 Airline Drive Minneapolis, MN 55450	Lisa Taylor Operations Manager 612-266-5439 lisa.taylor@delta.com	426	7389	561599	May 27, 2014 - May 27, 2017 May 27, 2017 - May 27, 2022



31	Firmenich - New Ulm	100 North Valley Street New Ulm, MN 56073-1601	Jenny Backer Health and Safety Manager 507-233-7442 Jennifer.wirz-backer@firmenich.com	90	2023	311514	June 1, 2014-June 1, 2017 June 1, 2017 - June 1, 2020
32	Bosch Security Systems	12000 Portland Ave Burnsville, MN 55337	Jim Stroud EHS Administrator 952-736-3877 <a href="mailto:jim_stroud@us_basch.com">jim_stroud@us_basch.com</a>	135	3669	334290	Dec 1, 2014- Dec 1, 2017 Dec 1, 2017 - Dec 1 2022
33	Cintas Corporation - Location 470	11500 95th Ave N Maple Grove, MN 55369	Brad Beyer General Manager 763-391-5266 beyerb2@cintas.com	106	7218	812332	Feb 15, 2015 - Feb 15, 2018 Scheduled for December 5-7, 2017
34	Thomson Reuters - Core Publishing Solutions	610 Opperman Drive Eagan, MN 55123	Sandra Farrow Engineering/Safety Manager 651-848-3220 sandra.farrow@tr.com	456	2732	323117	Sept 15, 2015 - Sept 15, 2018 2yr rr plan Jan. 1, 2016 - Jan. 1, 2018
35	Sysco Asian Foods	1300 L'Orient St St. Paul, MN 55117	Joe Lalich Safety Manager lolich.joe@asianfoods.com 651-558-2534	155	5141	424410	Jan 22, 2016 - Jan 22, 2019
36	Cintas FAS - Brooklyn Park	8703 Brooklyn Blvd., Brooklyn Park, MN 55445	Bill Montealegre General Manager (763) 657-8192 or (651)253-8192 cell montealegre@cintas.com	42	5047	423450	May 10, 2017 - May 10, 2020

MERIT SITES								
No.	Company Name	Address	Contact Information	EE	SIC	NAICS	Dates	Notes
1	NRG Energy Center Minneapolis, LLC	816 4th Ave South Minneapolis, MN 55404	Greg Olson Operations Supervisor 612-436-4152 greg.olson@nrgenergt.com	36	4961	221330	Sept 1, 2015- Sept 1, 2018 Merit Extended full 3-years	Intervention 107620312

**Goal 2.1.f -**

**Increase Alliances by 1 in FFY17 (projected in Consultation's FFY2017 CAPP, see footnote 2, pg. 6),**

Overall, 2 new Alliances were initiated with public sector entities, and 3 were renewed. A new Alliance with a network of skilled nurses was initiated to establish a venue for discussion of safe patient handling in long-term care facilities, Also, a new campus-specific Alliance with Rochester Community and Technical College was established,

Alliances were renewed with the MN State Colleges and Universities (State-wide), and with Riverland College (campus-specific). The State-wide Alliance continues to initiate hazard survey and safety management assistance for campuses and campus safety representatives. In addition, the campus-specific Alliances have added focus on incorporating S&H into student learning through existing curriculum and presentations. The Alliance with the Mexican Consulate was also renewed to continue highlighting MNOSHA programs and services that can be used as resources by Latino businesses and community representatives.

**Goal 2.2 -**

**In FFY17, maintain the total number of people participating in outreach (4,063),**

MNOSHA established a baseline of 4,063 participants per year for outreach training sessions covering various subject areas. IN FFY 2017, MNOSHA Compliance conducted 101 presentations to 3,609 participants. MNOSHA continued to utilize its Safety Investigator III and IV positions in its outreach efforts throughout the state. Ninety-nine (99) percent of outreach presentations were in emphasis industries, including construction with a focus in excavation and confined spaces in construction, Eight outreach training sessions were presented, specific to the new silica standard, to over 755 employer representatives,

Each year, MNOSHA Compliance has five leading organizations that request outreach services: Midwest Center for Occupational Health and Safety; Associated General Contractors of Minnesota; Associated Building Contractors; American Society of Safety Engineers; and Minnesota Safety Council, In these leading areas MNOSHA did 68 outreach presentations to over 1,886 participants,

In addition, MNOSHA conducted five Construction Seminars in FFY 2017, The Construction Seminar was developed to assist members of the construction industry responsible for worksite safety to stay current with MNOSHA standards, The Construction Seminar provides a forum for members of the construction trades and their

employers to discuss issues and experiences with the speaker, their peers, and MNOSHA investigators. MNOSHA continues to work with the Construction Seminar Focus Group to select safety topics and presenters for each event. Topics are discussed and voted on by each member and then approved by MNOSHA's management team. The committee is comprised of various representatives from the construction industry, including insurance loss control representatives, company safety directors, and safety consultants who volunteer their time and expertise. In total, the Construction Seminar presentations attracted 388 participants. Topics Included: Silica in Construction (presented in both May and September of 2017), Partnerships, Electrical Safety, and Excavation Safety.

MNOSHA continued its strong working relationship with the Minnesota Safety Council. MNOSHA continues to participate in major safety conferences throughout the state, including staffing information booths at three separate exhibitions in FFY17. All were well attended, with significant attendance and interest at the MNOSHA booth.

MNOSHA provided presentations at the local American Industrial Hygiene Association and American Society of Safety Engineers (ASSE) with 175 participants in attendance.

MNOSHA continues to look for opportunities to conduct presentations in the area of outreach for youth. Four presentations targeting youth were conducted in FFY 2017 with 132 youth in attendance.

New or revised publications during the fiscal year included: An Employer's Guide to Developing a Hazard Communication or Employee Right-to-Know Program; Emergency Eyewashes and Showers; Heat Stress; Trenching and Excavation Safety Fact Sheet; MNOSHA Fatality Investigation Summary for FFY 2017; MNOSHA Serious Injury Investigation Summary for FFY 2017; and, MNOSHA Most Frequently Cited Standards for FFY 2017.

In addition to the specific publications, MNOSHA continues to publish its newsletter, Safety Lines. Some of the topics covered in articles this past year included: Carbon monoxide; Powered industrial trucks (i.e., forklifts); Hazards in the grain industry; Respiratory protection; Metalworking lathe hazards; Heat stress; Downed power line hazards; Safe patient handling; automated external defibrillators (AEDs); Teen workers; Regulatory updates; Most frequently cited standards; OSHSPA; MNOSHA Compliance Excavation Safety Stand-Down; MNOSHA Consultation's work with the Mexican Consulate and other Latino groups; MNOSHA's outreach efforts, including the Construction Seminar; Voluntary protection programs (i.e., MNSTAR and MNSHARP) and partnerships; MNOSHA Compliance and Consultation year in review; Workers Compensation statistics, including the annual safety report from Research and Statistics; and, MNOSHA Answers Frequently Asked Questions.

MNOSHA continues its video lending library, which offers a selection of safety and health videos and DVDs available for a free two-week loan.

### **Goal 2.3**

#### **Homeland Security (Current practice: ongoing)**

The MNOSHA Compliance program continued to participate on the State Emergency Response Plan. The Minnesota Emergency Operations Plan was reviewed in January 2017 with no content edits. During FFY 2017, a MNOSHA supervisor attended four meetings of the Emergency Response Preparedness Committee. A MNOSHA supervisor attended four federal Homeland Security conference calls and is progressing through the Basic Emergency Management Certificate Learning Program.

MNOSHA, and the entire Department of Labor and Industry conducted a review and update of our Continuation of Operations Plan (COOP).

### **Goal 2.4 -**

#### **In FFY17, maintain response time and/or service level to stakeholders.**

Each business day, MNOSHA has two safety and health professionals on duty to answer questions received primarily through phone calls and emails. During FFY 2017; MNOSHA responded to 4,477 phone calls and 2,039 written requests for assistance, primarily e-mails. A majority of these inquiries are answered within one day. Of the phone calls received during FFY 2017, 44% were from employers, 37% employees, 3% consultants and the rest were from other individuals requesting safety and health information. Most information is provided to callers during the initial phone call, while others are directed to the MNOSHA or federal OSHA websites, or another state agency for assistance. The information requested covers a wide variety of topics which is why MNOSHA continues to use investigative staff to answer a majority of the calls.

During FFY 2017, MNOSHA received 1229 workplace safety and health employee complaints. And 319 or 26% of the total complaints resulted in an onsite inspection with an average of 3.4 days response time. The remaining complaints were handled via MNOSHA's phone/fax system (non-formal complaint).

MNOSHA also provides a variety of safety and health information on its website, including printable handouts and information about its audio visual library, which offers a selection of safety and health videos and DVDs available for a free two-week loan. The MNOSHA website site also provides links to other websites where safety and health regulations can be accessed. In total, there were 55,442 hits to the MNOSHA web page.

**GOAL SUMMARIES - SOAR for FFY2017**  
 Minnesota Occupational Safety and Health (MNOSHA) Compliance (cont'd)  
 SUMMARY OF ANNUAL PERFORMANCE PLAN RESULTS

**Goal 3**

*Strengthen and improve MNOSHA's infrastructure*

How Progress in Achieving this Goal Could Be Assessed	Baseline 9/30/13	FFY 17 Target	FFY 17 Results
1. Review rules annually for effectiveness: ongoing evaluation, development of rules, standards, guidelines and procedures.	Current practice	Ongoing	See comments following chart. [3.1]
2. Workforce development and retention plan	Current practice	Evaluate effectiveness of updated plan.	See comments following chart. [3.2]
3. Monitor and improve systems and processes to ensure the business needs of MNOSHA, the requirements of Federal OSHA, and the services provided "to stakeholders, are met.	Current practice	1) Ongoing- Evaluate consistency and quality of inspection files 2) Conduct analysis of SI reporting process.	See comments following chart. [3.3]

**GOAL 3 - Comments**

**Goal 3.1 -**

In FFY17: Conduct Annual Review of Rules/Standards, Guidelines and Procedures, ongoing

The MNOSHA Compliance Directives Coordination Team (DCT) is charged with coordinating and managing the MNOSHA internal information system. The DCT consists of three MNOSHA management analysts, and both a MNOSHA director and supervisor. This group monitors federal standard/policy activity and coordinates updates to all relevant MNOSHA standards, directives, and policies accordingly. MNOSHA adopts federal standards by reference and/or develops Minnesota-specific standards when necessary to support MNOSHA program goals.

Federal standards adopted in FFY 2017: 1) "Walking-Working Surfaces and Personal Protective Equipment (Fall Protection Systems); Final Rule."

Minnesota Rules adopted in FFY 2017: "Minnesota Rules 5205.0010, Adoption of Federal Occupational Safety and Health Standards by Reference," was updated with the above federal entry.

The annual review of Agency rules resulted in no MNOSHA obsolete or duplicative rules needing repeal in FFY 2017.

Of the 33 directive issuances in FFY 2017, 31 were revised, 1 was new, and 1 was canceled. Of those, 16 were part of the scheduled review and update, and 17 were unscheduled updates. Amended directives included those pertaining to: scheduling, complaint handling, discrimination, serious injuries, imminent dangers, EISAs, and indoor ventilation and temperature.

**Goal 3.2 -**

FFY17: Evaluate effectiveness of updated plan.

In FFY 2017, MNOSHA continued to maintain consistency and quality throughout the organization's field staff. Goals identified in FFY 2015 and continue in FFY 2017 are:

- To assure that MNOSHA has an adequate workforce to ensure that worksites are complying with MNOSHA safety and health regulations; and
- To assure that MNOSHA continues to be an organization that is recognized as a "best-in-class" state plan state.

Results from updating the Workforce Development Plan in FFY 2013 showed that MNOSHA staff in a number of leadership positions with significant years' experience may be retiring. These departures reduce MNOSHA's institutional knowledge and memory. This will potentially create leadership challenges in supporting and managing the many different approaches and situations of work/life balance for employees. As MNOSHA's workforce shifts to newer and younger employees, there will be an increasing need to invest in career planning for these workers to build their

proficiency in their jobs. This will increase the need to assess skills, abilities, and competencies, and provide training accordingly. MNOSHA has updated its training directive to include not only the technical skills, but also the soft skills such as presentation skills, time management, organizational skills, interviewing skills, conflict resolution and creative training techniques. In addition, MNOSHA has created specialized training in select industries such as foundries, grain handling, asbestos, combustible dust, HAZWOPER recertification, health care, PSM, traffic controls, and window washing. Each of these areas have had team leaders that assume the role as "expert" in this area and also work with various stakeholders to ensure that communication is maintained between MNOSHA staff and the various stakeholders. These team leads gain knowledge on leadership and how to work with significant stakeholders in the state of Minnesota.

During FFY 2017, MNOSHA trained its staff on: Right-to-know, including GHS; Silica Standard, Partnerships, and the new Walking-Working Surfaces Standard. In addition, MNOSHA has been able to retain field staff that have significant safety and health consulting experience and retain 2 investigators who speak fluent Spanish. MNOSHA has extremely dedicated and experienced staff including 6 Industrial Hygienists with 15+ years of experience, including two CIHs, and 11 Safety Investigators with 10+ years of experience.

**Goal 3.3 -**

**FFY17: Monitor and improve systems and processes to ensure the business needs of MNOSHA, the requirements of Federal OSHA, and the services provided to stakeholders are met: 1) Ongoing- Evaluate consistency and quality of inspection files. 2) Conduct analysis of SI reporting process.**

1) In FFY 2017, MNOSHA changed the process, for the handling, of reported potential imminent danger situations. Reports of imminent danger situations are now entered into the MOOSE system and assigned for inspection. The number of in compliance and/or no inspections has increased; however, we are now able to consistently track reported imminent danger complaints and ensure each valid report is addressed.

MNOSHA continues to assign fatalities/serious injuries on a rotating schedule resulting in a more evenly distributed workload across the state. Considerations are still taken based on the type of Inspection - health or safety; availability of the investigator(s); assigned office location of the investigator vs. the location of fatality/serious injury; and, if specific protective equipment or industry knowledge is required to respond to the fatality/serious injury i.e., foundry, Class III high visibility clothing for traffic control at night, grain facility, etc.

In FFY 2017, more than 100 board meetings were completed to discuss significant cases between the assigned investigator, their supervisor, and any assigned principal investigator/IH3. Board meetings are conducted to provide investigators with guidance, resources and an opportunity to discuss their significant easels. These board meetings have had a positive impact in regard to file documentation.

2) In FFY 2017, MNOSHA reviewed employer reports of injuries /illnesses and the procedures to process the reports outlined in MNOSHA Instruction ADM 3.16. This directive was amended and approved to direct OSHIs to consult with a supervisor to determine if the injury/illness will be processed as a serious injury or a non-formal complaint. As a result, the percentage of reports of injuries /illnesses handled as inspections decreased from 20% to 14%, while those handled as non-formal complaints rose from 80% to 86%.

**SOAR for FFY2017**  
**- Minnesota Occupational Safety & Health Compliance (OSH)**  
**SPECIAL ACCOMPLISHMENTS**

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In addition to traditional compliance activities, MNOSHA also concentrates efforts in other areas aimed at assisting employers to make their workplaces safer and healthier. Some achievements for FFY 2017 include:

**St. Croix Bridge Project**

This was a major construction project which replaced the 80-year-old Stillwater Lift Bridge with a four-lane bridge that connects expressways on both sides of the St. Croix River. The superstructure project consisted of the construction of piers, the precast segment components, along with ramp bridges connecting to Minnesota Hwy 36, the Minnesota Hwy 36 box-girder approach bridge, and a structure connecting that bridge to the one crossing the river. The extra-dosed bridge design is unique to Minnesota and to North America. The job started in 2014 and was completed in August 2017.

**Highway 53 Bridge Project Virginia Minnesota**

The project included almost three miles of new four-lane road construction; a 1,100-foot bridge across the Rouchleau iron ore mining pit; a new interchange at Highway 53/Highway 135; and utility and trail relocation. The project consisted of grading, paving, and bridge construction. The goals accomplished included the construction of a 350,000 cubic-yard causeway, the tallest bridge in Minnesota, and a 3.5-mile alignment of TH53 in Virginia, Minnesota. The project began in 2015 and was near completion at FFY 2017's end.

**MNOSHA Excavation Stand-down**

MNOSHA held the first Excavation Stand-down April 17 through April 21, 2017. Excavation safety was the topic because of the many hazards associated when working in excavations/trenches and the number of fatalities in Minnesota and the country. The purpose was to raise awareness among employers and workers about preventing excavation accidents. There were at least 11 companies and 248 employees who participated in the Stand-down by requesting a certificate of participation on MNOSHA's website. MNOSHA plans to continue with this focus on excavation safety.

**Hazardous Drug Work Group**

MNOSHA convened a hazardous drug working group to discuss ways to keep Minnesota healthcare workers as safe as possible. MNOSHA had 17 people from 11 different organizations participate. Two meetings were conducted in FFY 2016, and a final meeting was conducted in FFY 2017. The group discussed the current regulatory environment regarding hazardous drugs with input from MN Board of Pharmacy, MN Department of Health, and MNOSHA. The group also discussed areas of concern regarding hazardous drugs and the challenges to implementing proper worker protections. A written summary of the work was prepared and submitted to the Minnesota Legislators that requested that DLI convene the workgroup.

**Loggers' Safety Education Program (LogSafe)**

This program is 100% state-funded and administered by the WSC unit. The LogSafe training provides safety training throughout the state for logging employers. The training was contracted to Minnesota Logger Education Program, for CY's 2017 and 2018. The goal of the program is to help reduce injuries and illnesses in the logging industry through onsite consultation services, outreach and training seminars. In order to receive workers' compensation premium rebates from the Targeted Industry Fund, logger employers must maintain current workers' compensation and they and their employees must have attended, during the previous year, a logging safety seminar sponsored or approved by the WSC unit. The training sessions conducted included CPR/first aid applicable to logging, ergonomics, work-site safety, shop safety, emergency preparedness, and injury/fatality trends.

In January 2017, the consultant position dedicated to LogSafe was vacated due to a retirement, and the position has not been filled. Logging employers can still submit a request for consultation services.

**Workplace Violence Prevention Program**

This program helps employers and employees reduce the incidence of violence in their workplaces by providing on-site consultation, training seminars, and general information. The program focus is on providing technical assistance to workplaces at higher risk of violence. There has been continued work on workplace violence prevention in public sector and healthcare, with specific topic areas on program development, threat assessment, and de-escalation of violent situations. In addition, Active Shooter training was organized. The Workplace Violence Prevention Program is

a 100% state-funded program and is administered by safety consultants within the WSC unit.

On-going occurrence of workplace violence incidents in healthcare, public sector, and other work facilities has maintained continued interest for on-going technical assistance in the form of on-site evaluations and formal training. In FFY 2017, 20 formal training sessions were held with various public sector and healthcare entities. Eight conferences were attended providing information and outreach on workplace violence prevention and other services of Workplace Safety Consultation.

An alliance that was established with the Department of Health concluded with the completion of workplace violence prevention training to all offices within the department.

A workplace violence prevention consultant continues to serve on an advisory board for the Midwest Center for Occupational Health and Safety, Education and Research Center.

### **Safety Grants Program**

This 100% state-funded program, which is administered by the WSC unit, awards funds up to \$10,000 for qualifying employers on projects designed to reduce the risk of injury and illness to their employees. Qualified applicants must be able to match the grant money awarded and must use the award to complete a project that reduces the risk of injury or disease to employees.

During SFY 2017, the State awarded \$1,042,393 to 154 applicants representing private sector employers (e.g., nursing homes, construction, logging, and manufacturing) and public sector employers (e.g., schools, health care facilities, and municipalities). Examples of items purchased included: construction fall protection, trenching/excavation cave-in protection & prevention, safe patient handling equipment, tools & equipment for silica exposure control, material handling and other tools & equipment to minimize exposure to ergonomic risk factors, security equipment, ventilation systems, mechanized logging equipment, machine guarding, PPE, permit-required confined space entry equipment, and road construction zone safety equipment.

### **Ergonomics Program**

WSC has retained an ergonomics program coordinator, with a CPE credential. Safe patient handling (SPH) in healthcare and emergency services continues to be an area of significant involvement. Additional work on-site consultative services were provided at various acute and long-term healthcare facilities, medical lab, manufacturing, and state office facilities. For private sector employers, 24 initial consultation visits were completed, along with 9 training and assistance visits. Public sector employers received 10 initial consultation visits, along with 3 training and assistance visits. In addition, 41 interventions were completed for private sector employers and 16 for public sector employers that included formal training, outreach, and technical assistance. Visits included assessment in ergonomic risks, as well as assistance with other hazards and mandated health programs. Training topics included: ergonomics and back injury prevention, work-station assessment, safe patient handling, aging workforce, OSHA up-date/overview, and injury/illness recordkeeping.

Completion of a guidance document on developing a safe patient handling committee was completed. The document was a collaboration among long-term care representatives. Additional guidance documents were created on injury/illness recordkeeping, home health care, and childcare.

The WSC SPH webpage on the DLI website is being continuously updated to include safe patient handling information as it becomes available. Sample programs and links to outside sites are available.

A Hospital Safety & Health Group alliance has continued, with on-going networking meetings that provide a venue for local hospital reps to discuss SPH and other S&H issues. Meetings have focused on the overall hospital SPH program and SPH for clinics; discussing barriers that hinder SPH methods, best practices and other issues related to SPH and other areas of S&H. The group successfully networks through these meetings and via email, to continue discussions and idea-sharing.

**SOAR FFY2017**  
**Minnesota Occupational Safety & Health Compliance (OSH)**  
**MANDATED ACTIVITIES**

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**Compliance**

Activities mandated under the Occupational Safety and Health Act are considered core elements of Minnesota's occupational safety and health program. The accomplishment of these core elements is tied to achievement of the State's strategic goals. Many mandated activities are "strategic tools" used to achieve outcome and performance goals.

"Mandated activities" include program assurances and state activity measures. Fundamental program requirements that are an integral part of the MNOSHA program are assured through an annual commitment included as part of the 23(g) grant application.

Program assurances include:

- Unannounced, targeted inspections, including prohibition against advance notice;
- First instance sanctions;
- A system to adjudicate contestations;
- Ensuring abatement of potentially harmful or fatal conditions;
- Prompt and effective standards setting and allocation of sufficient resources;
- Counteraction of imminent dangers;
- Responses to complaints;
- Fatality/catastrophe investigations;
- Ensuring employees:
  - \* Protection against, and investigation of, discrimination
  - \* Access to health and safety information
  - \* Information on their rights and obligations under the Act
  - \* Access to information on their exposure to toxic or harmful agents
- Coverage of public employees;
- Recordkeeping and reporting;
- Voluntary compliance activities

Mandated activities are tracked on a quarterly basis using the SAMM (State Activity Measures) Report which compares State activity data to an established reference point. A comparison of MNOSHA activity measures for FFY16 and FFY17 is provided in the tables on pp. 18- 19.

Notable improvement was seen in these mandated activities in FFY17:

- Days to initiate complaint inspections decreased to 3 days, significantly lower than the goal of 9 days;
- Percent of total inspections in public sector increased in FFY17, and remains above the goal of 3%.
- Percent of work-related fatalities responded to in 1 work day, remains at 100%

**Consultation**

Mandated activities are tracked on a quarterly basis using the MARC (Mandated Activities Report for Consultation) and the CAPP (Consultation Annual Performance Plan) Report which compares State consultation data to an established reference point. Some specific performance measures that are monitored (and any corresponding targets/requirements):

- Percent of initial visits in high hazards establishments (not less than 90%);
- Percent of initial visits to smaller businesses (not less than 90%);
- Percent of visits where consultant conferred with employee (100%);
- Percent of serious hazards verified corrected in a timely manner, <= 14 days of latest correction due date (100%); Percent of serious hazards verified corrected in original time or on-site (65%).

The MNOSHA Public Sector Consultation program met CAPP total visit projections. It did not meet MARC performance measures for high-hazard establishments, employers of <= 250 employees, and serious hazards corrected timely, for FY 2017.

- Percent of initial visits in high hazard establishment...83.33%
- Percent of initial visits to businesses with <250 employees at the establishment... 78.21%
- Percent of initial visits to businesses with <500 employees controlled by employer ... 97.44%
- Percent of visits where Consultant conferred with Employees ....100%
- Percent of serious hazards corrected timely...99.34%
- Percent of serious hazards verified corrected (in original time or on-site) ... 94.7%

**COMPARISON OF FFY16 AND FFY17 ACTIVITY MEASURES  
MNOSHA Compliance**

Performance Measure	FFY16	FFY17	Comments
Average number of work days to initiate complaint inspections (state formula)	4.01	3.38	The average number of days to initiate a complaint inspection decreased in FFY17 and remains well below the established goal of 9 days.
Average number of work days to initiate complaint inspections	3.47	2.36	(Federal formula)
Average number of work days to initiate complaint investigations (state formula)	0.33	0.95	The average number of days to initiate a complaint investigation remains below the established goal of 2 days. Complaint process changes affected the data transferring to OIS for this measure.
Average number of work days to initiate complaint investigations	0.33	0.81	(Federal formula)
Percent of complaints & referrals responded to within 1 workday (imminent danger)	60	98.86	All but 1 imminent danger complaint was responded to within one day. The complaint did not get entered timely.
Number of denials where entry not obtained	0	0	Entry was obtained for all denials in FFY17.
Average violations per inspection with violations - Serious/willful/repeat	1.78	1.86	The number of SWR citations increased in FFY17. MNOSHA continues to follow its training plan to assist investigative staff in identifying hazards.
Average violations per inspection with violations- Other	0.69	0.70	The number of other citations increased slightly in FFY17. MNOSHA continues to follow its training plan to assist investigative staff in identifying hazards.
Percent of total inspections in public sector	4.90	5.11	The percent of programmed public sector inspections remains above the goal of 3%.
Inspections - Safety	1517	1446	The number of safety inspections decreased from FFY16 but met the fiscal year goal.
Inspections - Health	462	412	The number of health inspections decreased from FFY16 but remains above the fiscal year goal.
Average current penalty per serious violation (Private Sector Only) Total 1- 50+ EEs	857.93	1010.19	The overall average current penalty increased in FFY17.
Average current penalty per serious violation (Private Sector 1-50 EEs)	594.20	783.03	The average penalty for this size employer increased from FFY16.
Average current penalty per serious violation (Private Sector 51-99 EEs)	652.07	728.26	The average penalty for this size employer increased from FFY16.
Average current penalty per serious violation (Private Sector 100+ EEs)	1293.43	1748.91	The average penalty for this size employer increased significantly from FFY16.
Average current penalty per serious violation (Private Sector 100+ EEs)	2528.64	2186.70	The average penalty for the largest employers decreased in FFY17.
Percent in compliance - Safety	26.24	34.38	The percent in compliance safety inspections increased in FFY17.
Percent in compliance - Health	36.14	43.04	The percent in compliance health inspections increased in FFY17.
% of work-related fatalities responded to in 1 work day	100	100	All fatalities were responded to within one day.



Average lapse time from opening conference date to issue date - Safety	14.76	18.64	Safety lapse time increased in FFY17.
Average lapse time from opening conference date to issue date - Health	18.45	24.91	Health lapse time increased in FFY17.
Percent penalty retained	90.64	89.44	The percent penalty retained remained about the same in FFY17.
% of initial inspections with employee walk around representation	100	100	The percent of inspections with walk around representation remained at 100%.
Percent of 11 (c) investigations completed within 90 days	35	46	MNOSHA continued to work on the backlogged cases as well as the increase in new cases. The percent completed increased in FFY17.
Percent of 11 (c) complaints that are meritorious	15	12	MNOSHA's percent meritorious cases remained about the same.
Average number calendar days to complete 11(c) investigations	225	126	The average number of days decreased significantly from FFY16. The discrimination unit continues to work on the backlogged cases.

*Data Source: SAMM report run by Federal OSHA November 13, 2017.*